

2207

Declassified E.O. 12356 Section 3.3/NND No.

785016

ACC

10000/142/796

CASES IN
BADS
JUN. 1944

2208

Revised E.O. 12356 Section 3.3/NND No.

785016

0/142/796

CASES INVOLVING THEFTS & SABOTAGE OF AMMUNITION AT
BADS
JUN. 1944 - JUN. 1945

COS

Please see action on file 100-21511. The telegram at 10
 with an addendum reply to repeated to CAO.

CAS.
 8 NOV 1944

CA Sent. 2

(32A) is Signed Sent today; document B
 is therefore cancelled and document A
 is cannot be sent until 100-21511
 reply.

S/H
 S.H. 368

Excluded by
 in CSO
 Office of COS

COS

Reply is at 32A using A and is original

CAS.
 11 NOV 1944

VP. CAS.

Ref basic communication 38A, with follow up at 41A.

for VP.

for VP.

5/11
Ltr 348

in CSO
Office of COT

COS

Reply is at 33A in my A memo to signature
see [signature]
for VP.

CAS.
17 MAR 1944

VP. CAS.

Ref basic communication 38A, with follow up at 41A.

A suggested reply is attached for your signature if approved

The reply is based on report at 43A.

~~W. H. [signature]~~
C. [signature]
Dec. 1943

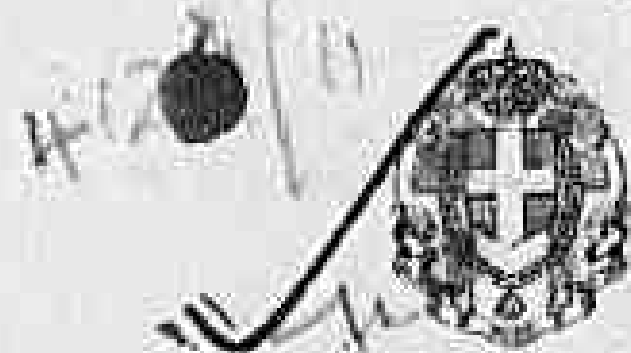
28 Mar 45

Recd. 1700 hrs. 29 MAR 1945
1 despatch

VP CAS. Reply at 44A for signature please.

20 Apr. 45

~~W. H. [signature]~~
C. [signature]
Dec. 1943



Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE DELLA STATISTICA E DEL CASELLARIO

Ufficio I° A.P.
Prot. N° 131-170/861



Roma

19-6-45 1

Mod 40

All'Onle. COMMISSIONE ALLEATA

MA R O M A
e per conoscenza:

All'UFFICIO DI COLLEGAMENTO
S E D E

Rispostato al f. del 16.4.45
N. AC/4129/11/4

OGGETTO = Piccoli furti di munizioni =

4/1A

Con riferimento alla nota sopra specificata si comunica che S.E. il Primo Presidente della Corte di Appello di Napoli ha testé assicurato di avere impartito ai Presidenti dei Tribunali di Napoli, Salerno e S. Maria C.V. le opportune disposizioni per la sollecita definizione dei procedimenti di cui in oggetto.-

LEGAL SUB COMMISSION

CLO

DCLO

Chief Counsel

CJO

Italian Section

CL RKS

27 JUN 1945

PEL MINISTRO
(A. Spallanzani)

Bay

93

55A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUBCOMMISSION

AC/4129/11/L.

/rlp.
22 May 1945.

SUBJECT : Pilferage of ammunition.

TO : The Provincial Commissioner, NAPLES Commune (Attn: Senior Legal Officer).

47A
Further to this sub-commissions letter to the Minister of Justice, reference AC/4129/11/L dated 16 April 1945, with copy to you, attached for your information is a copy of the instructions issued by the Minister to the First President of the Court of Appeal and the Procuratore Generale at the Naples Court of Appeal.

By command of Rear Admiral STONE:

q
A. R. THACKERAY,
Lt. Col.,
Italian Branch,
for Chief Legal Adviser.

Incl: Copy of letter 131.170/861 dtd
2 May 45.

92

4



Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE DELLA STATISTICA E DEL CASELLARIO

MA S.E. IL PRIMO PRESIDENTE
della Corte d'Appello;

A S. E. IL PROCURATORE GENERALE presso la Corte d'Appello
N A P O L I

Wm. A. P.

11/17/2011 131.170/861

Risposta al 1.^o del

Div. 1

Oggetto Piccoli furti di munizioni.

e per conoscenza.

ALLA COMMISSIONE ALLEATA

Sottocommissione Legale -

(risp. a f. del 16.4.945
S.A.C./4129/11/I.)

Il Quartier Generale delle FF.MM. ha richiamato l'attenzione della Commissione Allesta, Sottocommissione Ilegale, sul gran numero di piccoli furti che avvengono nei depositi di munizioni siti nei pressi di Napoli, segnalando che essi si verificano particolarmente nelle circoscrizioni dei Tribunali di S. Maria C.V., di Napoli e di Salerno.

Allo fine di marzo 1945 circa 140 persone erano in attesa di giudizio davanti ai detti Tribunali o alle Preture dei vari dipendenti.

La Sottocommissione Legale ebbe ad informare il Quartier Generale delle R.F.A.A. che i tribunali italiani fanno del loro meglio per la definizione di tali cause nelle difficili circostanze presenti.

Il Quartier Generale delle F.F.AA. ha tuttavia richiesto di essere informato dell'attività futura dei Tribunali sopra citati, nei riguardi dell'attività attuale in corso e che si presenteranno in avvenire.

→ *479*
e per conoscenza

(risp. a f. del 16.4.1945
R.A.C./4129/11/I.)

ALLA COMMISSIONE Alleata

Sottocommissione Legale - R O M A

Il Quartier Generale delle FF.AA. ha richiamato l'attenzione della Commissione Alleata, Sottocommissione Legale, sul gran numero di piccoli fatti che avvengono nei depositi di munizioni sita nei pressi di Napoli, segnalando che essi si verificano particolarmente nella circoscrizioni del Tribunale di S. Maria C.V., di Napoli e di Salerno.

Alla fine di marzo 1945 circa 140 persone erano in attesa di giudizio avanti ai detti Tribunali o alle Preture da essi dipendenti.

La Sottocommissione Legale ebbe ad informare il Quartier Generale delle FF.AA. che i Tribunali italiani fanno del loro meglio per la definizione di tali cause nelle difficili circostanze presenti.

Il Quartier Generale delle FF.AA. ha tuttavia richiesto di essere informato dell'attività futura dei Tribunali sopra citati, nei riguardi delle cause già specificate, attualmente in corso o che si presenteranno in avvenire.

Questo Ministero nel disporre che le relazioni relative a tale attività siano inviate nel modo consueto agli Ufficiali di collegamento di Napoli del Governo Militare Alleato (circolare 21 aprile corr.n.3053), richiama l'attenzione delle IL.IL. sulla necessità che tali cause siano prontamente giudicate e che di esse siano presentati rapporti completi ed accurati.

Si gradirà un cortese cenno di assicurazione.

per M I M I S T R O
(A. Spallanzani)

Recd. bene
22 MAY 1945

Spallanzani

4129/11 **CONFIDENTIAL**

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

LEGAL SL

986
FTH/as 53A

G-5: 250.5-2

9 May 1945

SUBJECT: Thefts of Ammunition - BAD 16, Nola.

TO : Headquarters, Allied Commission, APO 394. **45A**

1. Reference is to our G-5: 250.5-2 of 9 April 45 concerning the trial of persons stealing ammunition at BAD 16, Nola.

2. The British services have been advised to communicate with the AMG Naples office with a view to ameliorating the situation by local contact with the Italian courts.

3. The inclosed letter from 3 District dated 23 April 45 and minute from G-1(B) dated 5 May 45 indicate that the situation is still far from satisfactory.

4. It is again being suggested to the services affected that they seek relief through the local AMG authorities in Naples. It is however believed desirable that A.C. be kept informed in the premises.

For the Asst. Chief of Staff, G-5:

F. T. Hammond, Jr.
F. T. HAMMOND, JR.
Colonel, G.S.C.
Legal Adviser

Incls:
as above

LEGAL SUB COMMISSION

CLO

DCLO *Wd*

Chief Counsel

CJ *Gm*

11 MAY 1945

CONFIDENTIAL

Declassified E.O. 12356 Section 3.3/NND No.

Declassified E.O. 12356 Section 3.3/NND No. 785016

[illegible]

COPYCONFIDENTIAL

53B

Subject: Trial of Civilians - 16 B.A.D.3 District,
Tel. Ext. 18,
155A,
23 Apr 45.AFHQ, G1 (Br)

Reference your CR/4368/G-1(Br) dated 4 Mar 45.

1. 16 B.A.D. report that, according to their records, there are still 141 cases awaiting trial and a detailed list is attached at Appendix "A". It may be, however, that some of these cases have been tried but if this is so, 16 B.A.D. have not been informed, nor have witnesses from this installation been called.
2. It is considered that Italian lawyers engaged on these cases are hoping for a general amnesty on the conclusion of hostilities and are trying every way to delay proceedings.
3. 16 B.A.D. covers three separate tribunals so that persons arrested have to be tried in S. MARIA, AVELINO or NAPLES, depending upon the place of arrest. In minor cases the trial may be held in any of a dozen Praeturi and consequently it is very difficult at times to trace cases because communications are bad.
4. "Instrutoria", the process of questioning witnesses by the local Judge, is a frequent cause for excessive delay. 16 B.A.D. have been instructed to convey all persons as soon as possible after arrest to S. MARIA where they should be tried immediately. A number of persons have been taken to S. MARIA together with witnesses' statements in English and Italian but the papers are being returned to NOLA etc for "Instrutoria". Since it frequently takes as long as 10 days through the civil post from S. MARIA to NOLA, it will be realised that a very long time will elapse before cases are tried. There are many cases of a minor nature or where, on compassionate grounds it is not considered that arrest is warranted, e.g. a woman living alone who has two children and whose husband is a PW, is not normally arrested and transported 20 miles away to await trial. In such cases a charge is preferred and it has been found that such cases drag on interminably.
5. It is considered that an Allied Military Court, set up at NOLA will obviate the delays and in some cases, possible injustices which now occur through such delays and it is recommended most strongly that authority be given for the setting up of such a Court.

DOWN GRADED
TO
UNCLASSIFIED

RPF/KM

Copy to: 1A' 56 Area

Col JAC Pennycuik, DSO - (conv. Col Pennycuik - Lt. Col Flower refers)

Col. Inf.
Chief Judicial Officer. /s/ ?
Chief Civil Affairs Officer. Maj. Gen.
for Comd.

88

COPY

Subject: Thefts from BAD 16

2. G1/B/A3 G-5 5 May 1. The contents of Serial No. 1 have been conveyed
thru 45 to HQ No. 3 District.
Ord (B)©

2. As you will see from the letter from that
HQ and schedule attached, it is impossible to agree with the suggestion that
the Italian Courts in this area are co-operating fully, and the matter appears
to be getting worse rather than better.

3. Whilst not desiring to "throw the question
up" to you we feel we must record our views that the position remains most
unsatisfactory.

4. Will you please return the attached letter
when you have seen it?

/s/ ?

B. PASSINGHAM, Lt. Col.
AAG,
Major General,
DAG, G-1(Br).

BP/jaml

CR/4368/G1(Br)

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

52A

AC/4129/11/L.

ART/mt.
29 April 1945.

SUBJECT : Pilferage of Ammunition.
TO : The Provincial Commissioner, Naples Command,
(Attn: SLO).

Further to this Sub-Commission letter to the Minister of Justice and the Procuratore Generale Militare ref. AC/4129/11/L. dated 16 April 45, with copy to you, attached for your information is a copy of the instructions issued by the latter to the Procuratore Militare at the Tribunale Militare of Naples.

By command of Rear Admiral STONE:

ay
A. R. THACKRAH,
Lt. Col.,
Italian Branch,
for Chief Legal Advisor

Incl: copy letter of
Procura Gen. Mil.
dtd 27 Apr 1945.



129/11
 PROCURA GENERALE MILITARE DEL ~~REX IMPERATORE~~

PRESSO IL

TRIBUNALE SUPREMO MILITARE

N. 1147 P.G.
 Risposta a nota del

Prot.

Roma, li

27

aprile

1945

N.

Alleg.

STAMPERIA REALE DI ROMA

Oggetto: Procedimenti per furti di munizioni in danno degli Alleati.

AL PROCURATORE MILITARE NEL REGNO presso il
 TRIBUNALE MILITARE TERRITORIALE DI GUERRA =NAPOLI=
 e, per conoscenza:
 ALLA COMMISSIONE ALLEATA
 Sottocommissione Legale = ROMA =
 (Rif.f.AC/4129/II/L. del 16-4-945)

48A
 La Sottocommissione Legale della Commissione Alleata ha segnalato a questa Procura Generale che i Comandi Alleati hanno richiamato la sua attenzione sul grande numero dei furti di munizioni che si verificano nei depositi siti nei dintorni di Napoli.

Nel far presente la necessità di definire i procedimenti per reati del genere con rapidità, ha chiesto di essere informata su tutti i casi denunciati.

Invito pertanto la S.V. a dare il maggiore possibile impulso allo svolgimento dei procedimenti pendenti ed a trasmettere all'Ufficio Lega

85

./.

Allo stesso Ufficio dovrà essere comunicato l'esito dei procedimenti sopra indicati.

Attendo assicurazioni in merito.

IL PROCURATORE GENERALE MILITARE
(U. Borsari)

W. B. - 7

1945
U.S. COMMISSION
TO
SELECT
CHIEF COUNSEL
IN
Italian Section
CLERKS
28 APR 1945

~~28 APR 1945~~

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

AG/4129/11/L.

23rd April, 1945

SUBJECT: Theft from BAD Nola

TO: Provincial Commissioner, Naples Commune.

1. Thank you for B/174 dated 18 April 1945 in answer to AG/4129/11/L dated 14 April 1945.
2. If action is required, it should preferably be taken through the Procuratore Generale in Naples, although in particular cases there is no objection to visiting the appropriate Procuratore del Regno.
3. If required results cannot be obtained by these means, the full facts should be reported to this Headquarters so that the question may be discussed with the Ministry of Justice.

BY COMMAND OF REAR ADMIRAL STONE:

C. R. URJOHN, Brig.
Vice President
Civil Affairs Section.

H-129/11

Legal
49A

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
NAPLES COMMUNE
APO 394

R/1744

18 April 1945

SUBJECT: Thefts from BAD Nola.

TO : Allied Commission HEADQUARTERS (Attn: Legal Sub-Commission).

1. With reference to your AC/4129/11/L of 14 April 1945 I have communicated with Number 3 District and they informed me that they were making enquiries as to the position in Nola. They said that they did not want any action from this Headquarters at present but would let me know if they wanted a Legal Officer sent over to clear up the Courts at Nola.

2. I will keep you informed as to developments.

19 APR 1945

J. A. C. Pennyquick

J. A. C. PENNYCUICK
Colonel
Commissioner.

JACP/jc

Copy to: Number 3 District.

LEGAL SUB COMMISSION	
CLO	/
DCLO	WJ
Chief Counsel	/
CJ	le
Italian Section	/
CL RKS	/
19 APR 1945	

HEADQUARTERS ALLIED COMMISSION
APO 384
LEGAL SUB-COMMISSION

48A

AC/4129/11/L.

CGH/pa.
16 April 1945.

SUBJECT : Pilferage of Ammunition.

TO : H.E. The Procuratore Generale Militare,
Via degli Acquasparta 2, ROMA.

1. A copy of a letter addressed to the Minister of Justice by this Sub-Commission on the subject of pilferage of Allied ammunition Depots in the Region of Naples is enclosed. — 47A

2. Would Your Excellency be good enough to supply reports similar to those requested from the Minister at Para 4 of the said letter and covering cases of offenders of the same type who fall under the jurisdiction of Italian Military Courts.

3. Although Your Excellency is fully aware of it, the necessity for prompt trial of these cases is once more emphasized.

G. G. HANNAMORD,
Lt. Colonel,
Officer i/o Italian Branch,
for Chief Legal Advisor.

Incls.

47A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AG/4129/11/L.

WEB/ma.
16 April 1945.

SUBJECT : Pilferage of ammunition.

TO : H. E. The Minister of Pardon and Justice.

See 45A

1. AMC has drawn the attention of this Sub-Commission to the large number of cases of pilferage which are occurring in the ammunition depots near Naples. These cases occur within the jurisdiction of the Tribunale of S. Maria G.V., of Naples and of Salerno and the Tribunale Militare Territoriale of Naples. It is understood that at the end of March 1945 some 140 persons were awaiting trial before these Courts or their dependent preture.

2. This Sub-Commission has informed AMC that in our opinion the Italian Courts are doing their best to deal with these cases in the difficult conditions now existing.

3. AMC has however requested that it be kept informed of the future progress of these Courts in dealing with existing and future similar cases.

4. It is assumed that reports of these cases will be forwarded in the ordinary way to the Legal Office of AMC at Naples but it would be appreciated if Your Excellency would emphasize to the Procuratore Generale the necessity for prompt trials of these cases in the future and for full and accurate reports of them to be submitted.

5. The Procuratore Generale Militare has been requested to supply similar reports for cases which are being tried by Italian Military Courts.

S. E. BARRERS,
Colonel,
Deputy Chief Legal Advisor.

Copy to : SIO Naples
Procuratore Generale Militare, Rome.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4129/11/L.

/lrb.
14 April 1945.

SUBJECT : Thefts from BAD Nola.

TO : Provincial Commissioner, (Attn: Senior Legal Officer), Naples Commune.

1. When the Vice President Civil Affairs Section was at AFHQ yesterday, he received further complaints as to the stealing from the depot at Nola. Will you please give this matter your personal attention and investigate whether the courts are doing all that is possible.

2. Will you please speak to HQ No. 3 District on the subject, and keep ~~me~~ ^{them} informed as to the position.

By command of Rear Admiral STONE:

W. E. BEHMENS,
Colonel,
Deputy Chief Legal Adviser.

Copy to No. 3 District

4129/A
ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

Legal 45A
540

G-5: 250.5-2

9 April 1945

SUBJECT: Pilferage of Ammunition.

TO: Headquarters, Allied Commission, APO 394.

1. Your letter of 27 March, concerning efforts to bring to trial and adequate punishment Italian civilians stealing ammunition from the Base Ammunition Depot No. 16 at Nola, is acknowledged.

2. It is noted that HQ Southern Region, and Allied Commission, are of the opinion that the Italian courts at Naples have at last come to recognizing their responsibility and are now cooperating fully in the disposal of Allied interest cases. In this connection it is observed that of the 75 cases involving theft of ammunition pending at 1 Feb. '45, 17 cases have been disposed of, of which 5 were tried in February; and that 6 are fixed for trial in April; also that 15 ammunition cases tried at S. Maria, C.V. in 6 weeks ended 10 March 45 have resulted in sentences averaging 7 months plus fine.

3. Current Ordnance reports indicate that there were 110 new ammunition thefts at B.A.D. 16 in February, and the pilferage report for March shows 140 persons awaiting trial. In view of the fact that, even at the increased tempo cited by you, the lists are not being cleared rapidly, and of the importance to the military of the ammunition being stolen, it is requested that this HQ be kept informed of the future progress made each month by the Italian Courts in dealing with these cases.

Charles M. Spofford
CHARLES M. SPOFFORD,
Brigadier General, G.S.C.,
Assistant Chief of Staff, G-5.

80

LEGAL SUB COMMISSION

CLO

DCLO

Chief Counsel

CJO

Italian

CL RE

15 APR 1945

K
A

To arrange to have info reported.

See 47A + 48A

HEADQUARTERS ALLIED COMMISSION
AFO 394
CIVIL AFFAIRS SECTION

44A

AG/4129/11/L.

/rlp.
27 March 1945.

SUBJECT : Pilferage of Ammunition.

TO : AFHQ, C-5.

38A

41A

1. As a result of your letters Q5:250.5-2 of 2 and 11 March 1945, the Legal Division of Southern Region has conducted, on the instructions of this Commission, an exhaustive inquiry into the Allied interest cases now pending before the various courts in the Naples area, and particularly those cases affecting 16 B.A.D.
2. At the outset it should be borne in mind that the area covered by 16 B.A.D. extends into the jurisdiction of 3 separate Tribunale Courts, and a considerably larger number of Preture Courts which depend from these Tribunale. This fact itself makes it difficult, both for the Italian courts and for the AC officers cooperating with them, to keep check of cases reported unless full details are provided of the scene and date of the crime.
3. The figure of 80 cases reported to you as awaiting trial on 1 Feb 45 does not correspond with the list of 75 cases recently forwarded by Hq. 3 District to Hq Southern Region. Of these 75 cases some had already been disposed of before 1 Feb 45. No record is available to Hq Southern Region of any of the 12 cases mentioned in the report accompanying your second letter and you will appreciate that a mere list of 12 names, many of them exceedingly common in the Naples area, is wholly inadequate to enable a check to be kept on the cases involved.
4. Of the 75 cases above mentioned, 17 have been disposed of by judgment;
 - 6 cases have been fixed for trial during April 1945;
 - 7 cases on the list cannot be traced in any of the courts visited;
 - 45 cases are either in course of "instruction" or have been "instructed" and are in the list for a date of trial to be fixed.
 It should be added that 5 of the 17 cases disposed of were heard during February 1945.
5. The above cases, however, form only a small proportion of the Allied interest cases with which these courts are dealing. For instance, one of these courts, the Tribunale S. Maria C.V. disposed of 193 persons accused in such cases between 1 Feb 45 and 10 Mar 45. Of these, 15 persons were convicted for possession or theft of parts of ammunition.

6. The sentences imposed by these courts have increased recently by several hundred per cent, and the percentage of suspended sentences has decreased from about 80% to 7%. Only 14 suspended sentences were given in the list of 193 persons above mentioned. The sentences imposed in the 15 ammunition cases averaged 7 months imprisonment and a fine of 4000 Lire. These sentences are considered to compare favorably with any sentence that would be imposed by an Allied Military Court; they are certainly no less than those awarded by the recent courts at Bari where such considerable success was achieved.

7. It is the opinion of HQ, Southern Region, with which this Commission concurs, that the Italian Courts round Naples have at last, if belatedly, come to realize their responsibility and are now cooperating fully in the disposal of Allied interest cases.

8. To be deterrent, criminal trials must be prompt. As you are aware, the difficulties in the way of rapid justice which are inherent in the Italian system are enhanced by the lack of transport and communications and the shortage of personnel. The Italian Courts are, however, able and willing to proceed with their "direttissima" procedure, under which cases will be tried in 2 to 3 weeks, if the necessary formalities are fulfilled. These have been fully explained to HQ, 3 District by HQ, Southern Region and suggestions were put forward, and accepted, which if observed should facilitate considerably the rapid trial of these cases.

9. For the reasons above mentioned, it is not considered that there exists any real justification for a further approach to the Italian Government at the present time.

10. In reference to your suggestion that Allied Military Courts may have to be established in the area concerned to deal with cases of pilferage from 16 B.M.D. it is desired most emphatically to draw your attention to the following additional factors;

a. This Commission would not feel justified in complaining to the Italian Government of a lack of cooperation from the Italian Courts concerned which was the dominating factor in the decision to establish AM Courts at Bari;

b. The new policy towards Italy is entirely inconsistent with the establishment of AM Courts in Italian Government Territory save in the most exceptional cases and for the most serious crimes;

c. In any event, the number of legal personnel at the disposal of this Commission at the present time and in the light of future commitments makes the establishment of any permanent court in Italian Government Territory impossible.

For the Chief Commissioner.

Copy to: Regional Commissioner,
SOUTHERN Region.

G. R. UFFCHIN, Brig
Vr. Sec. Hq. AC

✓ 429/110
HEADQUARTERS
SOUTHERN REGION, ALLIED COMMISSION
LEGAL DIVISION
APO 394, U.S. Army

(43A)

4065
L-~~500~~

22 March 1945

SUBJECT: Pilferage of Ammunition.

TO : Legal Sub-Commission, HQ, A.C. 42A

39A
1. Reference is made to your letters N. AC/4129/11/L, dated 5 March 1945 and 15 March 1945 respectively.

2. For a better understanding of this matter copies of all relevant correspondence are herewith enclosed.

3. 3 District heretofore submitted 75 cases to us for investigation. A copy of said list is herewith attached, with annotations thereon ~~write~~ up to date. The following appears therefrom:

- a. 17 cases have been disposed of by judgment. ||
 - b. 6 cases have been fixed for trial for a day certain.
 - c. 45 cases are either in the "istruttoria phase" or in Cancelleria to be placed on the trial calendar.
 - d. 7 cases cannot be found in any of the Courts visited.
4. We have not been requested to investigate any other cases affecting 16 BAD.

5. As regards the S.Maria C.V. Tribunale a consistent and steady improvement has been shown in the handling of cases affecting Allied interests.

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6. From 1 February 1945 to 10 March 1945 the S.Maria C.V. Tribunale tried 112 Allied cases affecting 193 defendants. Of said defendants only 14 received suspended sentences. This represents only 7 per cent in suspended sentences as compared to an average of about 80 per cent prior to 1 February 1945. All sentences meted out, although still not as heavy as is desired by 3 District, have nevertheless increased several hundred per cent in severity.

7. Of the 193 defendants above mentioned, 18 were charged in ammunition cases, to wit, possession or theft of machine gun belts, empty shells, etc. 3 of said defendants were acquitted, 4 received 1 year plus a fine, 1 received 11 months plus fine, 1 received 6 months plus fine, 5 received 5 months plus fine, 3 received 4 months plus fine, and 1 received 3 months plus fine. Fines ranged from 3000 lire to 5000 lire. ~~fine~~. No sentences were suspended. In no case was it proved that the quantity involved was significant or that the circumstances were aggravating. It must be remembered that sentences imposed prior to 1 February 1945, in ammunition cases, were totally insignificant and almost invariably were suspended.

8. This office, as well as the office of the First President of the Court of Appeal of Naples, has constantly urged all Courts and particularly the Tribunale of S. Maria C.V., to pay the most careful attention to cases affecting Allied interests, and to impose exemplary, deterrent sentences in such cases.

9. As soon as 3 District puts into effect the suggestions approved by them in their letter dated 18 February 1945, the S. Maria Tribunale will be in a still better position, than it now is, to reasonably satisfy the demands made by the Military. It is to be noted that the aforesaid approved suggestions have been partially put into effect and there is great promise that soon the Courts and the Military will be working as one in Allied Cases.

10. The only recommendation we have to make is that the Minister of Justice himself address a letter to the S. Maria C.V. Tribunale in which letter he should once again stress the importance of early trial and severe sentences in Allied cases and particularly in cases involving 16 BAD.

For Lt. Col. L.F. DAWSON, R.L.O.:

CCB/ga →

Encls. →

LEGAL SUBCOMMISSION

CLO

DELO

CH. G. G. G.

CLO

DELO

CH. G. G. G.

24 MAR 1945

Carl C. Banno

1st. Lt. A.C.

Officer i/c Italian Courts.

76

		<u>CASES ARRESTED AND AWAITING TRIAL</u>
29/4/44	BOCCELLA FELICE	STEALING W.D. Ammunition.
26/12/43	PRISCO GIOVANNI	Out after curfew with fire-arms.
27/6/44	ANGIERI FELICE	Possession of W.D. Ammunition.
6/7/44	SEPE COSTANTINO	Threatening with arms one of the civilian employees of 16 B.A.D. and possession of W.D. property.
24/7/44	ESPOSITO FERDINANDO	Possession of W.D. ammunition
24/7/44	CARBONE MARIA	" " " "
24/7/44	ESPOSITO ANTONIO	" " " "
	NAPOLITANO FRANCESCO	Possession of fire-arms and ammo.
23/8/44	DE FALCO PAOLINO	Possession of W.D.ammunition.
1/9/44	CACCAVALE MADDALENA	Stealing W.D. ammunition.
1/9/44	DE MAIO GIOVANNI	" " " " } From Tribunale of Minors to Pretura of Merguliano for instruction. 8/12/44
1/9/44	DE MAIO CIRO	" " " "
12/9/44	RUBINO FELICE	Possession of firearms. (to hold for instruction.)
26/9/44	PIZZELLA FRANCESCO	Interfering with ammunition.
30/9/44	SODANO VINCENZO	S.I.B. case
30/9/44	MAUTONE MICHELE	S.I.B. case
	SPAMPANATO RAFFAELE	Possession of W.D. powder (Dismissed by Instructional Judge for insufficiency of evidence)
7/10/44	PRISCO STEFANO fu Domenico	" " " "
10/10/44	NAPOLITANO NICOLA	Possession of W.D. clothing (A.P.M. 10/3/45. Agente Instructional Judge 12/3/45)
13/10/44	ZAMPILLO VINCENZO	Injuring 16 B.A.D. O.R.
13/10/44	FIorentino PASQUALE	Injuring a foreman at 16 B.A.D.
20/10/44	LAURI ANTONIO	Possession W.D. clothing
20/10/44	MOCCIA RAFFAELE	" " " 3
29/10/44	DE MAIO FRANCESCO	Stealing W.D. ammunition
5/11/44	NEO LUIGI	Possession of W.D. property
5/11/44	D'ONOFRIO CARMINI	Possession W.D. Property. (Fixed for trial for 28/3/45)
7/11/44	TORTORA SEBASTIANO	Possession W.D.ammunition
9/11/44	D'ELLA GIUSEPPE	Possession W.D. clothing (to be fixed for trial)

CASES ARRESTED AND AWAITING TRIAL

LING W.D. Ammunition.

. No record.

after curfew with fire-arms.

. No record.

ession of W.D. Ammunition.

. ~~No record.~~ *Lauro Pretura. Acquitted 1/12/44*

atening with arms one of the

ian employees of 16 B.A.D.

possession of W.D. property.

. From Nola to Lauro Pretura, 14/11/44

ession of W.D. ammunition

. From Nola to Marigliano Pretura, 27/7/44

" " " "

. " " " " " "

" " " "

. " " " " " "

ession of fire-arms and amm.

. Dismissed 31/7/44 Nola. ALLIED COURT.

ession of W.D. ammunition.

. Fixed for trial, 10/3/45. Acquitted

ing W.D. ammunition.

" " } From Tribunale of Minors to Pretura of Marigliano for instruction. 8/12/44

. From Nola to Tribunale of Minors, 24/3/44

ession of firearms. (to Nola for instruction.)

. " " " " " "

fering with ammunition.

. " " " " " "

. case

. To Military Italian Tribunal Naples, 26/

. case

. In instructional phase, 19/1/45.

ession of W.D. powder (Dismissed by instructional Judge for insufficiency of evidence)

. From Nola to Marigliano Pretura, 13/10/

ession of W.D. clothing (R.F.A. 10/3/45. Against instructional Judge 12/3/45)

. In instructional phase, 27/12/44.

ing 16 B.A.D. O.R.

. From Nola to Naples Tribunale, 16/10/44

ing a foreman at 16 B.A.D.

. In Instructional phase 8/11/44

ession W.D. clothing

. Filed. (No complaint), 20/12/44.

" " 3

. 28/11/44 Sentenced to 6 mos. & 4100 fine-susp. sent.

ing W.D. ammunition

. 24/1/45 " " 25 days & £1000 fine

ession of W.D. property

. 24/2/45 " " 2 mos. & £.2000 fine.

ession W.D. Property. (Fixed for trial for 28/2/45)

. 24/2/45 " " 1 month & £.5000 fine.

ession W.D. ammunition

. 21/11/44 to Nola. 29/1/45 to S. Maria CV

ession W.D. clothing (To be fixed for trial)

. 16/1/45 Sentenced to 2 mos. & £.3000 fine.

. 25/11/44 to Nola. 19/2/45 to S. Maria CV

10/11/44	DELL'ANNO ANIELLO	Possession of W.D. property	Fixed for
9/11/44	DE SENA GIOVANNI	Possession of W.D. ammunition	Sentenced
9/11/44	D'ONOFRIO MICHELE	Possession of W.D. ammunition	25/11/44
9/11/45	LA MANNA ANGELO	Possession of W.D. ammunition	Sentenced
9/11/44	D'ELIA NICOLA	Possession of W.D. property	No record
9/11/44	GAMBARDELLA MICHELINA	Possession W.D. ammunition	6/12/44
9/11/44	DELL'ANNO GIUSEPPINA	" " clothing	10/12/44
9/11/44	LIETO MARIA	Possession of W.D. property	10/12/44
9/11/44	SCOTTI ROSA	Possession of W.D. property	24/1/45
9/11/44	MANZI RAFFAELLA	Possession of W.D. ammunition	6/12/44
9/11/44	SIRIGNANO ORSOLA	Possession of W.D. clothing	5/12/44
14/11/44	CASALINO DOMENICO	Possession of W.D. material	Sentenced
14/11/44	NUNZIATA FRANCESCO	Stealing amm. and forgery	23/11/44
14/11/44	CARRINO AGOSTINO	" " " "	"
6/11/44	CAPASSO SALVATORE	Interfering with ammunition	Sentenced
13/11/44	DEL GIUDICE VINCENZO	Stealing W.D. ammunition	Sentenced
28/11/44	BUSSONE ANDREA	Possession W.D. ammunition	12/1/45
21/11/44	BARONE RAFFAELE	Possession W.D. ammunition	From Nola
25/11/44	MALINCONICO GRAZIO	Possession W.D. ammunition	From Nola
25/11/44	SALVATI MICHELE	Interfering with W.D. ammunition	From Nola
27/11/44	PICCOLO ALESSANDRO	Wilful damage to W.D. property.	From Nola
26/11/44	CASSESE ANNA	Stealing W.D. ammunition	From Nola
26/11/44	CASSESE ANGELA	" " " "	" " "
	SORICE ANTONIO	Possession W.D. Cordite	No record
3/12/44	DE NICOLA LUIGI	Possession W.D. petrol	From Nola
3/12/44	PRISCO PAOLO	Possession W.D. clothing	From Nola
7/12/44	PENNA FELICIA	Possession Allied clothing	In instr
7/12/44	IOSSA ANTONIO	" " " "	"
7/12/44	MONTI MARIA fu Pasq.	Possession W.D. clothing	From Nola
12/12/44	STAINO FRANCESCA	" " " "	From Nola
24/12/44	AMBROSIO RAFFAELE	Interfering with amm.	From Nola
24/12/44	AMBROSIO FRANCESCO	Possession W.D. ammunition	" "
26/12/44	VETRANO CARMINE	" " " "	From Nola
26/12/44	D'ANNA LUIGI	Stealing W.D. ammunition	From Nola
26/12/44	SILVESTRO DOMENICO	" " " "	" "
27/12/44	VETRANO ANTONIO	Possession W.D. ammunition	From Nola
21/12/44	COPIOLA FRANCESCO	Possession W.D. ammunition	From Nola

To maniglia

ession of W.D. property	Fixed for trial 10/2/45. Returned to Nola for instruction 15/2/45
ession of W.D. ammunition	Sentenced to 1 month & £.1000 fine; 10/1/45; SUSP.
ession of W.D. ammunition	25/11/44 to Nola. 19/2/45 to S. Maria C.V.
ession of W.D. ammunition	Sentenced to 11 mos. & £. 5000 fine, 10/2/45.
ession of W.D. property	No record Sentenced 29/1/45 1 month and 1000 lire fine
ession W.D. ammunition	6/12/44 to Nola. 2/3/45 to S. Maria C.V.
" clothing	10/12/44 to Nola. 2/3/45 to S. Maria C.V.
ession of W.D. property	10/12/44 to Nola. 2/3/45 to S. Maria C.V.
ession of W.D. property	24/1/45 to Nola. 6/3/45 to S. Maria C.V.
ession of W.D. ammunition	6/12/44 to Nola. 2/3/45 to S. Maria C.V.
ession of W.D. clothing	6/12/44 to Nola. 2/3/45 to S. Maria C.V.
ession of W.D. material	Sentenced to 1 month & £.3000 fine, 16/1/45.
ing amm. and forgery	23/11/44 to Tribunale for Minors, Naples.
" " "	" " " " " "
ffering with ammunition	Sentenced in Naples to 3 mos. & £.1000 fine, 26/2/45
ing W.D. ammunition	Sentenced to 1 year & £.3000 fine, 3/2/45.
ession W.D. ammunition	12/1/45 to S. Maria C.V., from Nola. To be fixed for trial
ession W.D. ammunition	From Nola to Naples Procura, 4/12/44. Under instruction
ession W.D. ammunition	From Nola to S. Maria C.V., 6/12/44. Set for trial for 16/4/45
ffering with W.D. ammunition	From Nola to Naples Procura, 4/12/44. To be fixed for trial
l damage to W.D. property.	From Nola to S. Maria C.V., 12/1/45.
ing W.D. ammunition	From Nola to S. Maria C.V., 12/1/45. Returned to Nola for instruction 26/2/45
" " "	" " " " " "
ession W.D. Cordite	No record.
ession W.D. petrol	From Nola to S. Maria C.V., 12/1/45. Set for trial for 21/4/45
ession W.D. clothing	From Nola to S. Maria C.V., 12/1/45. to be fixed for trial
ession Allied clothing	In instructional phase. No Record
" " "	" " " " " "
ession W.D. clothing	From Nola to Naples 12/1/45. To Marigliano for instruction 29/1/45
" " "	From Nola to Avellino Pretura 12/1/45.
ffering with amm.	From Nola to Naples 12/1/45. to Tribunale of Minors 20/1/45
ession W.D. ammunition	From Nola to Avellino Pretura, 6/3/45
" " "	From Nola to S. Maria C.V. 19/2/45; to Nola 3/3/45
ing W.D. ammunition	" " " " " "
" " "	" " " " " "
ession W.D. ammunition	From Nola to Avellino Pretura, 12/1/45.
ession W.D. ammunition	From Nola to Naples Tribunale 22/1/45.
	To Marigliano for instruction 6/2/45

27/12/44	MENNA ANTONIO	Possession W.D. clothing	. From Nola
1/1/45	PAPARO GIORGINO	Possession W.D. clothing	. From Nola
1/1/45	NUNZIATA BIAGION	Stealing W.D. ammunition	" "
2/1/45	CIFOLLARO GIUSEPPE	Possession W.D. ammunition	. From Nola
2/1/45	MONTUFUSCO MICHELE	" " "	Instruction 7/2/45 " "
27/11/44	SANGIOVANNI FERDINANDO	" " "	. No record
27/11/44	VITULANO AMELIA	" " "	. " "
27/11/44	NUNZIATA PASQUALE	" " "	. To Procur
11/1/45	BOTTINI NATALE	" " "	. From Nola
11/1/45	D'ANTONIO MICHELE	" " "	. " "

Session W.D. clothing	From Nola to Avellino Pretura, 17/1/45.
Session W.D. clothing	From Nola to S. Maria C.V., 22/2/45.
ling W.D. ammunition	" " " " " " (to Trib. of Minors 24/2/45)
Session W.D. ammunition	From Nola to Tribunal of Minors, 19/1/45.
" "	" " " " " " }
" "	No record.
" "	" "
" "	To Procuratore del Regno of Salerno, 9/6/44.
" "	From Nola to S. Maria C.V., 29/1/45. } set for trial
" "	" " " " " " } for 28/3/45
" "	" " " " " "

(Copy)

Subject Trial of Civilians.HQ Southern Region AC
APO 394
-----3 District.
Ext 17.
191A
18 Feb 45.

Ref your R/1467 dated 17 Jan 45.

1. The suggestions contained in para 4(a) (b) and (c) of your letter under ref are agreed.
2. Every endeavour will be made to deal with the cases as expeditiously as possible, but of necessity some delay must arise between the delivery of the criminals and the delivery of the requisite documents.

JA/PG

Sgd: ????? Lt.Col APM
for Maj Gen
Comd

(Copy)

HEADQUARTERS
SOUTHERN REGION, ALLIED COMMISSION
OFFICER OF THE REGIONAL COMMISSIONER
APO 394

R/1467
L-5060

6 February 1945

SUBJECT: Civilian Charges.

TO : 3 District Cmd. HQ.

Reference to your 191A of 21 January 1945.

1. Lt. Col. DAWSON, the R.L.O. for Southern Region and Lt. Bannò the Officer i/c of the Italian Courts have made a personal visit to the Tribunale of S.Maria C.V. and had a long conference with the Magistrates of that Court.

2. The R.L.O pointed out the serious view taken by the Allied authorities and indeed by the Italian law itself of any sort of interference with ammunition in particular and with WD property in general. He indicated clearly the disastrous consequences which might flow from such interference even when apparently alight, and concluded by exhorting all concerned to deal with Allied interest cases with expedition and to impose exemplary and deterrent sentences. He indicated that in such cases, in the middle of a war with the enemy still in the land, the peace time principle of reformation of the criminal could find no place, and that putting him under lock and key was the only remedy of any value.

3. The R.L.O was assured by all present that he had explained many matters which had, until then been obscure or not properly appreciated, and that he could confidently look forward to a real and immediate improvement.

4. The present status of the "cases arrested and awaiting trial" was then ascertained and same was noted. A schedule of those cases, together with annotations thereon, is herewith enclosed. 71

5. It will be noted that more than half the cases, about which you inquired, have NOT been received by the S.Maria C.V. Tribunale. The remaining cases are either fixed for trial or are being prepared for trial.

6. In order to facilitate the early disposal of all of said cases the following suggestions are made:

a. A copy of the arrest report in all cases of which the Court has no record, should be sent to the Tribunale and the accused transported to the Court for its investigation.

b. All reports should contain the full name AND PATERNITY of the accused, together with the date and place of arrest. Many Italian names are common and therefore difficult to trace without complete information. The PATERNITY of the accused is a most important detail in the establishment of his identity.

c. The suggestions made in my letter ref. R/1467 of 17 January 1945.

7. The R.L.O and the Officer i/c of Italian Courts will continue to supervise closely the activities of the S.Maria C.V. Tribunale with a view to having all cases affecting Allied interests disposed of in an expeditious and exemplary manner.

For the Regional Commissioner -

LFD/ap.

Sgd: L.F. DAWSON
Lieut. Col., G.L.,
Reg. Legal Officer.

(Copy) 0

SUBJECT:- Civilian ChargesCONFIDENTIALHQ Southern Region
Allied Commission
-----3 District
Ext 18
191A
21 Jan 45

Ref R/1467 of 17 Jan 45.

1. A list of civilians arrested at 16 BAD since June 1944 is attached.
2. It will be seen that the sentences are in most cases inappropriately light. Furthermore there is a very large number of cases awaiting trial apparently dating back to August and in many cases the accused have been released.
3. It is suggested that it must appear to those meditating further crimes that even those who have been caught are put to little inconvenience. It is therefore strongly urged that these cases be investigated and, if substantiated, steps be taken to speed up the trial of all such accused in order that the local inhabitants may realise that crimes against military property do not go unpunished.
4. The points suggested in the above quoted letter where the Military might assist the Civil Authorities in speeding up the trials are being investigated and will be the subject of a separate letter.

DOWN GRADED
TO
UNCLASSIFIED

CJG/EHS

Col. Inf.
Chief Judicial Officer
for Chief Civil Affairs Officer.

Sgd. ????? Lt.Col.
for Col
DA & QMG

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(Copy)

HEADQUARTERS
SOUTHERN REGION, ALLIED COMMISSION
OFFICE OF THE REGIONAL COMMISSIONER
APO 394

R/1467

17 January 1945

SUBJECT: Protection of 16 BAD.

TO : No3 District.

Reference your 191A of 28 December 1944.

1. This matter was discussed on the occasion of our Joint Conference on 10 January 1945. It appears to me, however, that it might be desirable for me to write a letter to you which would keep the matter in order in your files.

2. As I explained at the time of the conference, the setting up of an Allied Military Court at NOLA which is Italian Government Territory demands a special authority from the President of the Allied Commission and this matter is now in discussion between AFHQ and H.Q. Allied Commission. Indeed that matter was first raised by us immediately after your initial inquiry and we know that a letter was written by H.Q. Allied Commission to AFHQ some weeks ago.

3. You will appreciate that while the matter is under discussion at this high level, it would be wrong for Southern Region H.Q. to take any independent action. I am, however, anxious to assist in every way possible and to secure the fullest measure of cooperation from the Italian Courts.

4. I, therefore, caused a very careful investigation to be made. I find that the Italian Court concerned, that of the Tribunale of Santa Maria C.V., is doing its best to cope with the business. I believe that quicker procedure would be possible, if the Officer Commanding 16 BAD and the Military Police concerned therewith, could themselves follow up cases which are handed over by them to Italian Police. In particular, I would like to suggest that the following three (3) points should be brought to the attention of the Officer Commanding 16 BAD.

a. All persons arrested by the Military Police should be by them immediately transported to and confined in the S.Maria C.V. prison.

b. The arrest report should be complete in every detail

and contain detailed statements of the witnesses and the police participating in the arrest. Such statements should be sworn to before an Allied Officer.

c. All arrest reports and statements attached thereto should be translated into Italian and both the English and Italian version thereof should be forwarded by special messenger directly to the Procura del Regno of the Tribunale of S. Maria C.V.

5. It must not be forgotten that the Italian Courts are working under very grave, physical disadvantages. They are short of transportation, telephones and working in improvised buildings, owing to the local military requirements. In spite of these difficulties they are carrying out their duties in a reasonably satisfactory manner and the sentences imposed by them are on the whole adequate.

JKD/jh

J.K. DUNLOP,
Brigadier,
Regional Commissioner.

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HEADQUARTERS
ALLIED COMMISSION, SOUTHERN Region
LEGAL DIVISION
APO 394, U.S. Army

6 January 1945

SUBJECT: Protection of 16 BAD.

TO : Regional Commissioner, Southern Region.

1. I resubmit your file of papers on the above mentioned subject and refer to letter, number 347 G, dated 28 December 1944, addressed to you by GOC 3 District and to your note dated 30 September 1944.

2. I have had the GOC's complaint investigated by Lt. Banno and I include in your file a copy of his report to me dated 4 January 1945.

3. It is true that within the past two weeks some seventy-two cases affecting Allied interests have been received by the Tribunale of Santa Maria C.V. for disposal.

4. These seventy-two cases include the eleven referred to by the GOC in his letter.

5. The reasons why these cases have not yet been disposed of, are set forth in Lt. Banno's report.

6. I entirely agree with the recommendations Lt. Banno makes in his report - indeed, they are all matters to which I had occasion to refer in the report which led to the setting up of Military Courts in the Bari Zone.

7. With reference to the GOC's request in para 3 of his letter, this matter has already been taken up at a higher level and an earlier request for Military Courts to handle cases of pilferage arising in the Nola area, was refused by HQ Allied Commission by letter AMG/14609/PS, dated 1 December 1944, addressed to AFHQ G-5. A copy of this letter is tagged in my Secret file which I submit herewith.

8. On my return last night from my tour of the extreme south of Italy, with you, I was handed letter, number AC/4173/11, dated 1 January 1945, addressed to you by the Deputy Chief Legal Officer. This letter is contained in file P/15.

9. At the same time, I was summoned to appear in 3 District Headquarters this morning to discuss the matter of setting up Allied Military Courts in Nola.

10. I there saw Lt.Col.Gittings and showed him a copy of Lt.Banno's report. I informed him that a previous request for the setting up of a Military Court in Nola had been turned down. I at the same time indicated to him that I considered it quite useless to re-open the matter now and I indicated to him that the remedy lay in the hands of 3 District by the adoption of at least 4a,b,c and d recommended in Lt.Banno's report. I at the same time informed him that I would submit a copy of this report to you together with my comments on the whole position. The difficulties complained of are inherent in the whole Italian judicial set up and in the lack of transport and in the poor communications under which they suffer. Everything possible is done by my Division to make the Italian judiciary work, but if the very matter upon which they are to work, namely the body of the accused himself, the bodies of certain witnesses, and evidence in a language which they can understand, is not available to them, then it must be obvious that all my efforts must fail of their effect.

11. I have always indicated that the Italian Courts, depending upon the Court of Appeal of Naples, have in general done their best to give satisfaction and to co-operate; but there is a limit to what one can reasonably expect of them and that limit is reached if Courts which in law have no jurisdiction to try certain offenses, are asked nonetheless to assume such jurisdiction and if, further, the Court which has jurisdiction in law is not afforded the whole-hearted assistance and co-operation of service authorities on the spot in getting accused persons, necessary witnesses and statements in the Italian language before it. I do feel that the remedy insofar as Nola is concerned lies in the hands of 3 District Command which by instructing all police agencies under its control to render tangible assistance in the shape of transport and the rest to the Italian Courts, would get the desired results.

LED/jc

Sgd: L.F. DAWSON, 6
Lieut. Col., G.L.
Regional Legal Officer.

HEADQUARTERS
SOUTHERN REGION, ALLIED COMMISSION
LEGAL DIVISION
APO 394, U.S. Army

4 January 1945

SUBJECT: Protection of 16 BAD.

TO : R.L.O., Southern Region, A.C.

1; Reference letter 3 District File 347G, dated 28 December 1944.

2. Investigation into this matter has been made and it has been found that the Italian Courts are handling all cases affecting Allied interests, including cases of pilferage from 16 BAD, as expeditiously as possible under the circumstances.

3. It must not be forgotten that the Italian Courts, particularly the Tribunale of S.Maria C.V., are utterly devoid of means of transportation and telephone facilities, and that the distances which investigators, judges, witnesses and Carabinieri must travel are indeed great. In spite of these difficulties, the Italian Courts are performing in a reasonably, satisfactory manner.

4. Inasmuch as practically all cases involving pilferage from 16 BAD fall within the jurisdiction of the Tribunale of S.Maria C.V., the following suggestions are respectfully made for the further expedition of the trial of such cases:

a. All persons arrested by the Military Police should be by them immediately transported to and confined in the S.Maria C.V. prison.

b. The arrest report should be complete in every detail and contain detailed statements of the witnesses and the police participating in the arrest. Such statements should be sworn to before an Allied Officer. 6

c. All arrest reports and statements attached thereto should be translated into Italian and both the English and Italian version thereof should be forwarded by special messenger directly to the Procura del Regno of the Tribunale of S.Maria C.V.

d. If possible, 3 District should make available to the said Tribunale a military vehicle for the use of the Court in cases affecting Allied interests.

e. In order to render it possible for the local Courts to function in full force and effect, all Court buildings now requisitioned and used by Military Forces should be immediately derequisitioned.

5. It is believed that if the suggestions contained in the preceding paragraph be accepted and put into effect cases affecting Allied interests could be tried in record time and the sentences imposed would be of a more deterrent and exemplary nature. Certainly no Allied Military Courts would be necessary. Failing that, only a traveling circuit military court would completely answer the problem in question..

CCB/ga

Sgd: Carl C. Bannò
1st. Lt. A.C.
Officer i/c Italian
Courts.

(42A)

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4129/11/L.

15 March 1945

SUBJECT: Pilferage of Ammunition.

TO : Regional Commissioner (Attn: Regional Legal Officer)
SOUTHERN Region.

1. Further to my letter of 5 March and your reply L-4091 of 7 March, I enclose a letter and copy report received from AFHQ.

2. Please expedite your report on the situation.

By Command of Rear Admiral STONE:

W. E. BEHRENS,
Colonel,
Deputy Chief Legal Adviser.

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4129/11

LEGAL 314 (41A)
2542ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 250.5-2

11 March 1945

SUBJECT: Pilferage of Ammunition.

TO : Headquarters, Allied Commission, APO 394.
(Attn: Legal Subcommittee).

38A

1. With further reference to our letter of 2 March 1945, subject as above, there is enclosed herewith copy of "Special Pilferage Report 16 BAD for month ending 28 February 1945." Attention is invited to the fact that according to this report no sentences were made during February and 90 cases are awaiting trial.

for *C. J. Spofford*
CHARLES M. SPOFFORD
Brigadier General, G.S.C.
Assistant Chief of Staff, G-5

Incls:
as above

LEGAL SUBCOMMISSION	
CLO	/
DCLO	
Ch of Counsel	/
CLO	
Italian Section	/
CL RKS	/
1 MAR 1945	

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C O P Y

41B

SPECIAL PILFERAGE REPORT 16 B.A.D.
for month ending p.m. Wednesday 28th February 1945.

To : - D.O.S. A.F.H.Q. C.M.F.

Reference your DOS/42/1/4) of 19th December 1944.

1. GENERAL TREND OF PILFERAGE

Pilferage from the depot has remained at the same level as last month with 110 incidents reported. Cordite, cloth bags, wooden boxes, augmenting charges and Brass Cartridge cases have been the main losses. Organised raids have taken place on the B.L. line between S. Paolo and Palma and the A.E.D. These have been countered by extra guards and searches and a number of arrests made. C.M.F. have co-operated in a number of cases and the arrests they have made do not appear on this report.

2. NUMBER OF THIEVES ARRESTED OR SHOT

Simeone Medore	Charged
Lauro Giuseppe	do
Spezia Armando	do
Sapio Giocchino	do
Ambrosino Luigi	do
Guigliano Antilio	do
Romano Michele	do
.....	
Bellucci Antonio	Arrested
Esposito Mario	do
Esposito Pasquale	do
Manno Ciro	do
Giugliano Pinto Raffaele	do

3. RECORD OF SENTENCES AWARDED

Nil

There are at present 90 cases awaiting trial

2. NUMBER OF THIEVES ARRESTED OR SHOT

	Charged
Simeone Medore	do
Lauro Giuseppe	do
Spezia Armando	do
Sapio Giocchino	do
Ambrosino Luigi	do
Guigliano Antilio	do
Romano Michele	do
.....	

	Arrested
Bellucci Antonio	do
Esposito Mario	do
Esposito Pasqualle	do
Manno Ciro	do
Giugliano Pinto Raffaele	do

===== 67 =====

3. RECORD OF SENTENCES AWARDED

There are at present 90 cases awaiting trial

Nil

=====

In the Field
2nd March 1945

Sgd ? ? ?

Lieut Colonel
Chief Ordnance Officer, 16 B.A.D.

4129/11
26

40A

HEADQUARTERS
SOUTHERN REGION, ALLIED COMMISSION
LEGAL DIVISION
APO 394, U.S. Army

L-4091

7 March 1945

SUBJECT: Pilferage of Ammunition.

TO : Legal Sub-Commission, HQ, A.C.

1. Reference is made to your letter AC/4129/11/L,
dated 5 March 1945.

2. Investigation is being made as requested. Report
will follow.

For Lt. Col. L.F. DAWSON, R.L.O.:

CCB/ga

Carl C. Banno
Carl C. Banno
1st. Lt. A.C.
Officer i/c Italian Courts.

LEGAL SUB COMMISSION	
YLO	
WLO	
Chief Counsel	
CJO	
Italian Section	
CLERKS	

53

39A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4129/11/L.

/rlp.
5 March 1945.

SUBJECT : Pilferage of Ammunition.

TO : Regional Commissioner (Attn: Regional Legal Officer),
SOUTHERN Region.

1. AFHQ, G-5 has notified this Commission that pilferage at BAD 16 has not diminished and states that "on 1 February 1945 the cases of 80 persons who had been apprehended and charged with pilferage from BAD 16 were awaiting trial, and the sentences imposed by Italian courts for such offences, appear to have been consistently inadequate."
2. I notice from your report dated 27 February 1945 that during the month of February the various courts around Naples have shown consistent improvement in their handling of such cases. In particular, you state that the Tribunale of Santa Maria C. V. which presumably handles the bulk of these cases has shown a change for the better. You add that 3 District has promised assistance to this tribunale for the future so that future prospects are considerably improved.
3. I am aware of the pressure you have been continually exercising on the courts in general and this tribunale in particular, and I feel that your efforts are now bearing fruit. If this is so, it is possible that the report, on which the AFHQ letter is based, has already become out of date.
4. AFHQ has, however, suggested that the Italian Government should be advised of the necessity for a more vigorous administration of existing judicial procedure.
5. Would you, therefore, please advise this sub-commission, in order that any proper representations may be made to the Italian Government.
 - a. The disposition, in general terms, which has been made of the 80 cases from BAD 16 which were awaiting trial on 1 February 1945. Any particularly bad cases should be cited in sufficient detail for a report to be made to the Ministry of Justice; and
 - b. Any available information about cases initiated since 1 February 1945.

By command of Rear Admiral STONE:

W. E. BEHRENS,
Colonel,
Deputy Chief Legal Advisor.

Copy to: AFHQ, G-5 (your G-5
250.5-2 of 2 Mar 45 refers).

4129/10

LEGAL S/L (38A)

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 250.5-2

2 March 1945

SUBJECT: Pilferage of Ammunition.

TO : Headquarters, Allied Commission, APO 394.
(Attention: Legal Sub-Commission)

1. It is the policy of this Headquarters, and of the Allied Commission, as stated in your AMG/14609/PS of 1 December 1944, not to convene Allied Military Courts in Italian Government territory save in the most exceptional circumstances, and then only as a last resort.

2. In November 1944 damage to and thefts of ammunition in Base Ammunition Depots No. 14 and 16 reached such proportions that it was found necessary to establish Allied Military Courts in the Bari area to cope with the problem with respect to BAD 14. Together with increased efforts to guard the Depot, it is understood that the convening of the court had a most salutary effect.

3. Pilferage at BAD 16 has not diminished, and is of an order to cause continued anxiety. Efforts adequately to guard the depot have not met with success. Additional guards, trip flares and police dogs are now being employed. On 1 February 1945 the cases of 80 persons who had been apprehended and charged with pilferage from BAD 16 were awaiting trial, and the sentences imposed by Italian courts for such offences appear to have been consistently inadequate.

4. It is believed that the facts may warrant a departure from usual policy, and in view of the military necessity of protecting BADs require the convening of a Military Court. It is suggested that prior to taking such action it may be expedient to advise the Italian Government of the necessity for a more vigorous administration of existing judicial procedures, in the hope that substantial improvement may result.

5. It is requested that you will advise this Headquarters of the action taken.

Copy to: Ord (B)
C-1 (B)

LEGAL SUB COMMISSION
CLO
DCLO
Chief Counsel
CJO
Italian Government
CL RG

CHARLES M. SPOFFORD,
Brigadier General, G.S.C.,
Assistant Chief of Staff, G-5.

4 MAR 1945

HEADQUARTERS ALLIED COMMISSION
AIO 393
LOCAL SUB-COMMISSION

37A

AC/41/28/5.

/ra.

17 Dec. 1944.

SUBJECT : Request for General Military Court,
BORROWK Migi.

TO : Regional Commissioner (attn. R.L.O.),
Southern region.

1. References yours L-9407 7 of 8 December 1944.

2. For the reasons fully set forth in ours of 10 December a copy of which is attached hereto we cannot concur in the suggestion that this case be referred to a General Military Court for trial. Indeed this case is dissimilar to the case of ALASKA ANGLO only in that in this case there would appear to be some doubt whether the evidence would support even a charge of theft.

3. If you desire this matter referred to Brig. WILSON upon his return to this station kindly return all documents.

4. Documents enclosed herewith.

By command of Commodore STONE:

C.E. BERRERS,
Colonel,
Deputy Chief Legal Advisor.

Incl: Copy AC/4128/6/L.
of 10 December.
Copy to AC/4128/11/L.

File in AC/4129/11/L

36A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4129/11/L.

/mt.
10 December 1944.

SUBJECT : Request for General Military Court, PAPARELLA Angelo.
TO : Regional Commissioner (Attn: Regional Legal Officer)
SOUTHERN Region.

1. Reference your L. 3046 of 8 December 1944.
2. In the absence of Brigadier Upjohn, we suggested to you in ours of 7 December 1944 AC/4129/8/L for the reasons therein set forth that the case of GERASOLA Pasquale be referred to your standing superior court in Bari for trial on the charge of double aggravated theft.
3. We are of the same mind with respect to the case of PAPARELLA Angelo and for the same reasons.
4. We cannot believe that a general court should be convened in this type of case unless the evidence clearly indicates a direct intent to commit sabotage as such. If a contrary view were taken it would be necessary to refer substantially all cases of this character to general courts for trial since all involve "dolo eventualis" in the sense that the accused must be deemed to have foreseen and therefore accepted the resulting damage to the ammunition which the theft involved.
5. This case involves the garden variety of theft. No direct intent to commit sabotage is indicated. We cannot conceive that any court should or would award more than 10 years for the offense.
6. Under these circumstances we find no justification for the appointment of a general court and shall so strongly represent to Brig. Upjohn if it is your desire that the matter be referred to him upon his return to this station. In that event kindly return all documents for his review and decision.
7. Documents returned herewith.

By command of Commodore STONE:

5.

W. E. BEHRENS,
Colonel,
Deputy Chief Legal Advisor.

Copy to: AC/4129/11/L. ←

2257

Declassified E.O. 12356 Section 3.3/NND No.

785016

4129/11

File

CONFIDENTIAL

35A

SF/685

DIE. 081350

C/3234

DEC 081455

PRIORITY

AICOM SOUTHERN REGION

HQ AICOM

- 8 DEC. 1944

9 DEC. 1944



FOR INFORMATION ONLY

CONFIDENTIAL.

Minor disturbances at BITONIO 2 and 3 December associated with search for Pilfered Amm resulting 2 British CM wounded 1 civilian killed 4 civilians wounded. Reinforcements of British troops and CC Rd have been sent and situation is now in hand. Zone Commissioner has paid personal visit and is submitting further report

→ CHIEF SUB-COMMISSIONER
 LO
 Chief Counsel
 CIO
 Italian Section
 CL RKS

DIST

ACTION PUB SAFETY (2)
 INFO CHIEF COMMISSIONER
 CoS
 C A SEC
 FILE

11 DEC 1944

CONFIDENTIAL

51

DOWN GRADED
 TO
 UNCLASSIFIED

Col. Inf.
 Chief Judicial Officer
 For: Just. C. H. P. R. C. H. P. R.



2258

Declassified E.O. 12356 Section 3.3/NND No.

785016

✓
4129 INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

Legal 1348

Originator's Reference: SR/684
 Date/Time of Origin: DEC 08/1350A

Message Centre No: C/3237
 Date Time Rec'd: DEC 08/1600
 Precedence: PRIORITY

FROM: ALCOM SOUTHERN REGION

TO: HEADQUARTERS ALCOM

ACTION

CONFIDENTIAL.

Further to verbal report DUNLOP UPJOHN BEHRENS. Latest report from BARI shows 6 cases now await trial for pilfering from 14 BAD.

DIST.

Action: Legal s/c (2)
 Info: Chief Commissioner
 CA Sec
 File



LEGAL SUB-COMMISSION

CLO

DCLO

Chief Counsel

CJO

Italion

C. RKS

8 DEC 1944

CONFIDENTIAL

53

2259

Declassified E.O. 12356 Section 3.3/NND No.

785016

File

S E C R E T

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4129/L.

33A

/rlp.
5 December 1944.

SUBJECT : Pilferage of Ammunition.

TO : Regional Commissioner, (Attn: Regional Legal Officer).
SOUTHERN Region.

Herewith for information copy of Civil Affairs Section letter
AMG/14600/PS dated 1 Dec 44 to AFHQ, G-5, in connection with the above.

By command of Commodore STONE,

DOWN GRADED

TO

Incl: Copy of letter. Col. Inf.

Chief Judicial Officer.

for Chief Civil Affairs Officer.

W. E. BEHRENS,
Colonel,

Deputy Chief Legal Advisor.

S E C R E T

SECRET. 32A

HEADQUARTERS ALLIED COMMISSION
APO 594
CIVIL AFFAIRS SECTION

AMC/11609/15

1 December 1944.

SUBJECT: Piracy of navigation.

TO: AFHQ, G-5.

1. In reply to your G-5 250.5-2 of 11 Nov 44 it is regretted that it will not be possible for the military courts recently established in the Bari zone to deal also with cases arising in the Naples area.

2. It remains the general policy that Allied Military Courts will not be convened in Italian Government Territory save in the most exceptional circumstances and where the Italian Courts are either unable or unwilling to deal satisfactorily with the offences committed.

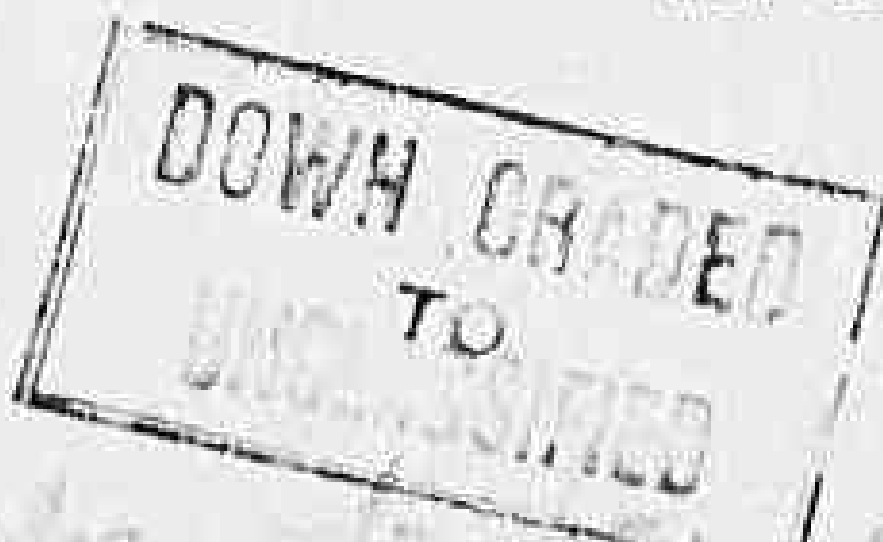
3. The Italian law provides drastic and adequate punishment for persons charged with theft of or damage to navigation. In the Bari area, however, the Courts showed that they were at least incompetent if not deliberately un-co-operative in the enforcement of this law in spite of many protests from the Allied Authorities made over a long period of time. It was felt, therefore, that the circumstances were sufficiently exceptional to justify the establishment of permanent military courts in that area.

4. These conditions do not appear to obtain at Nola. So far no complaint has reached this HQ of misconduct on the part of the Italian Courts there and the Regional Commissioner of Southern Region reports that he has no complaint to make of their work.

5. The problem of personnel for courts for the Nola area would also require consideration. In view of the heavy commitments now being undertaken in espionage trials in the Army areas and in sabotage trials in the Bari zone it is not possible to find the additional staff necessary to establish other permanent courts without reducing the assistance being furnished elsewhere to the military authorities.

6. For these reasons it is considered that the proposal to establish permanent courts in the area of No. 16 MAD is not yet justified. In cases of special gravity, of course, it will be possible to convene individual courts in the usual way.

For the Chief Commissioner.



G. J. REJOHN. Brig.
VP O. A. Sec
Dep ADI

Col. Inf.
Chief of Staff Officer
for Chief Civil Affairs Officer.

COPY

File 4129/11 E. H.
 HEADQUARTERS
 SOUTHERN REGION, ALLIED COMMISSION
 OFFICE OF THE REGIONAL COMMISSIONER
 APC 394

31-A

W/1247

29 November 1944

SUBJECT : Protection of BAD's.

TO : AFHQ, G-5.

1. Reference your Signal Message FX59172, addressed to HQ, ALCOM, repeated to Southern Region, and in confirmation conversation of yesterday (Brigadier DUNLOP - Colonel LEWIN-HARRIS), the following information is submitted in respect of 16 BAD, Nola.

2. Over a period of approximately two months 43 people have been charged, twenty within last fortnight, of these 19 have been convicted by Italian Courts and are now in jail.
 12 have been arrested, released on bail and are now awaiting trial.
 12 have been charged under the Italian system but not yet arrested.
 In addition to the above figure of 43 there are 12 men who are "wanted" and for whom warrants of arrest have been issued. They have not yet been apprehended.

3. In the case of 14 BAD at Bitonto, military courts were set in operation at Bitonto and Bari at the commencement of last week. Details of the number of cases disposed of during the first week will be submitted to you at an early date.

S/ J. K. DUNLOP,
 Brigadier,
 Regional Commissioner.

Ref 434 Paros 1 & 2 see PS file
 14609/PS

50

30A

File 4129/11

12 Y Nov 44

~~12/12/44~~

My dear Mr Prime Minister,

As you are no doubt aware the Allied Military authorities in Bari have for many months complained of the thefts and acts of sabotage which have taken place in the various depots in that area. In particular they have repeatedly protested against the large quantities of ammunition which are either stolen or rendered unserviceable.

These complaints have been brought to the notice of the Ministry of Justice and the local judicial officials. The local courts, however, seem unable or unwilling to take a serious view of the cases which are brought before them.

The number of these offences is not decreasing in any way. The offenders are clearly guilty of acts hostile to the Allied Forces and are in fact seriously prejudicing military operations and the prosecution of the war.

I regret to inform you that I consider it necessary in these circumstances to protect the Allied interests by the establishment of Allied Military Tribunals in the area, and I am accordingly authorising the Regional Commissioner to convene regular Allied Military Tribunals in the Bari zone for the trial of such cases of this nature as he may consider necessary.

Yours very truly,

MILVY W. STONE
Comodore, USNR
~~Acting~~ Chief Commissioner.

His Excellency Ivanoe DONOMI
The President of the Council of Ministers
Italian Government
R O M E

43

SECRET

29A

HEADQUARTERS
SOUTHERN REGION, ALLIED CONTROL COMMISSION
OFFICE OF THE REGIONAL COMMISSIONER
APO 394

R/1138

21 Oct 44

SUBJECT: 14 BAD, BITONTO.

TO : Headquarters, Allied Control Commission,
(Chief of Staff).

1. Under cover of this HQ letter R/1138, dated 21 October 1944, a copy of the Regional Chief Legal Officer's report on the Legal and Judicial Situation in this Region has been forwarded to you. Para 14 of the Report describes the critical situation which has arisen at 14 BAD as a result of sabotage.

2. The Bitonto dump covers an area of 150 square miles and the ammunition is stacked along a maze of roads and by-roads. The local population has discovered that ammunition includes components which can be used for civilian purposes of various kinds. It is also possible that the population includes true saboteurs who commit acts of direct sabotage to interfere with the war effort.

3. Owing to the inevitable size of the dump, it is practically impossible to protect the ammunition from interference during the night. For instance it is estimated that a complete division of troops would not insure total cessation of sabotage.

4. The result of the foregoing conditions is that really important quantities of ammunition are being sabotaged and -which is particularly dangerous- sabotaged in such a way that the damage is frequently not discovered until the ammunition has reached the front line. Machine gun belts are stolen by the thousands and the cartridges replaced in the boxes or thrown on the ground (3 million rounds have been lost in this way); carrying straps of 3 inch mortar shell boxes have been cut so that shells drop to the ground when the box is lifted; parachutes of illuminant mortar shells have been removed and the shells reassembled so that this cannot be detected; Artillery cartridges are emptied of all or some of the propellants and the shell replaced so that the loss is not detected; bags of cordite are emptied and the bags removed. The O/C of the BAD has stated that the situation is now of real urgency.

5. In order to meet this situation the following steps are recommended:

a) - That the area covered by the dump and, for say, a mile beyond should be declared a Military Zone. Bitonto is not a particularly important commune and no inconvenience to the ci-

DOWN GRADED

TO

Col. Inf.
Chief of Staff
for Chief Civil Affairs Officer.

///.

- 2 -
SECRET

Italian administration is expected from such a declaration.

b) - That this HQ attaches a Legal Officer to the BAD HQ and that 2 suitable Ordnance Officers be approved as members of any General Court, which it might be necessary to convene. The Legal Officer will conduct all Summary and Superior Courts which it may be necessary to hold in the Zone and will also be available to preside on any General Courts.

c) - That, insofar as accommodation can be obtained, the maximum number of first-quality Italian troops should be stationed in the military zone for guard purposes. Requisitioning should be freely used to find them accommodation (the commune has not earned the right of any special consideration in this matter). It is suggested that there is little duty which the Italian Army can do at present which is as important as this.

d) - That a Public Safety Officer of a really energetic and aggressive character be attached to 14 BAD. The Police Officer would prosecute before the Military Courts and would put ginger into the Italian soldiers or CC. RR. guards. A little really active saboteur shooting might do wonders-but it needs an Allied Officer to conduct the chase.

e) - That the widest publicity be given to the creation of the Military Zone and that strongly-worded posters should be erected throughout the zone warning saboteurs of the fate which awaits them if they are caught stealing or in possession of ammunition, its components or other Allied property.

f. These proposals are recommended for consideration as a matter of urgency. Military authorities have NOT been approached, pending your decision or views.

sgd. Temperley

C.E. TEMPERLEY,
Colonel,
Regional Commissioner.

CET/jh

cc: RCLO

Comr, Bari Zone

SECRET

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

28A

ACC/4129/11/L.

RHW/ap
2 Sept 44

SUBJECT : Serving of Sentences outside Italy.

TO : To Executive Commissioner (thru VP Adm Sec).

1. Since receipt of your 283/113/CA of 26 Aug 1944 I have had a report on the accommodation available for prisoners on island establishments.

2. The only islands where accommodation might be found are :-

LIPARI. This island is not suitable for a prison establishment. Fresh water does not exist on the island and has to be transported from the mainland. In addition the only accommodation available consists of 4 groups of buildings of which 2 require much structural alteration and the other 2 have recently been developed under AMG inspiration into fine educational institutions. A very bad impression would be created if these were taken over for prison use.

USTICA This island was used for "confine" of political prisoners. The buildings are not suitable for the accommodation of criminals.

COLOMBARA This island, off Trapani, is in use as a prison, but the accommodation is limited to 200. Pending the completion of a building programme it is unlikely to be of much use for our requirements.

TREMITI These islands are in use as a prison, but have been taken over by the Italian Naval authorities for their offenders. It is considered that no useful purpose would be served by suggesting

a re-transfer to the civil authorities.

ELBA

It is believed that a limited amount of accommodation may prove to be available in the Elba group of islands, but complete details are not yet available.

3. It should further be pointed out that under Italian procedure sentences over 5 years can be ordered to be served in the islands; it is not however, the judge at trial but the Ministry of Justice after conviction, who orders where the sentence is to be served. The necessary deterrent publicity can doubtless be secured, however, in cases where the Ministry does order imprisonment on an island.

4. In view, however, of present conditions it would not appear to be worth while to take any further action at least until more prison accommodation is actually available.

RICHARD H. WILMER,
Colonel, CAC.,
Chief Legal Officer.

2267

4129/11

HEADQUARTERS
ALLIED CONTROL COMMISSION
I.C. & M.C. SECTION
APO 394

Wilson

AS

Lionel

27A

Ref 283/113/OA

26th August 1944

SUBJECT: Serving of Sentences Outside Italy

TO : Chief Legal Officer

23A

1. With reference to your letter No. ACC/4129/11/L of the 19th August, it is not possible to send offenders to North Africa for imprisonment for various reasons. It is however considered that the point raised by Col. Zellars in his letter regarding the inadequacy of certain sentences might be covered by sending such offenders to islands which are a part of Italy proper such as for example, Lipari.

2. Lipari Island is, I know, being considered for use for grain offenders in Sicily, but there may be other islands like it which could be used for the purpose you suggest.

3. Would you please consider this matter and if you think it worth while taking up, I would be glad if you would prepare a draft as you suggest.

Worshipful

L

M. S. LUSH
Brigadier
Executive Commissioner
For A/ Chief Commissioner

2

PERSONAL AND CONFIDENTIAL

264

HEADQUARTERS,
ALLIED CONTROL COMMISSION,
APO 394

Regional Control and Military Government Section.

26 AUG. 1944

Ref: 26/Cm.

25th August 1944

In reply to your 5001/9/CAG of 15th August, there is no doubt that the Italian Tribunals in Bari have been deliberately unco-operative in dealing with persons charged with offences at our ammunition depots there.

It should be stated that the Tribunals did their best to deceive our local officers as to the cases being tried and the sentences being passed; so soon as our attention was drawn to the situation by the Regional Legal Officer at Bari the Acting Chief Legal Officer of the Allied Control Commission went to Bari and took immediate action to ensure that such behaviour does not occur again. He also conferred with Brigadier Palmer at Bari concerning this situation.

General TRAINA, the officer in charge of the Italian Military Tribunals, was interviewed and informed that such conduct by his tribunals would not be tolerated. He was instructed and he promised to send out strong directives to his officers ordering them for the future to ensure proper trials of such cases and adequate deterrent sentences.

The personnel of the military tribunals has also been changed as a new President has been appointed and the existing Procuratore ~~Generale~~ has been suspended.

In one case, when the Allied Military witnesses were not summoned, General TRAINA considered the trial completely unsatisfactory and he stated that he would order a re-trial. In the other cases, it is, unfortunately, not possible to increase the sentences or revoke the suspensions.

Furthermore, it has been decided that until the future conduct of the Italian Military Tribunals becomes clear, a more liberal policy will be pursued in the authorisation of trial of such cases in Allied Military Courts in the territory.

I hope that by these measures a substantial and immediate improvement in the situation will be secured.

(Sgd). M. S. Lush.

834

Major-General Sir Brian H. Robertson, Bt.,
K.C.V.O., C.B., C.B.E., D.S.O., M.C.,
Chief Administrative Officer,
HQ Allied Armies in Italy.

Copy to: Maj. Gen. E. P.
Nares, CBE, GOC. No. 2 Dist.
V. P. Adm Sec (Attn. Legal
S/Ocm).

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

(25A)

ACC/4129/11/L.

RHW /ap.
24 August 1944.

SUBJECT : Sentences -Saboteurs.

TO : Admin Section.

1. Herewith draft of letter it is suggested be sent
by Brigadier LUSH to Major-General Sir BRIAN H. ROBERTSON BT.,
in reply to his 5001/9/CAO dated 15 Aug 44, also enclosed,

1 Inc.

RICHARD H. WILMER,
Colonel, CAC.,
Acting Chief Legal Officer.

42

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. SECTION
APO 394

August 1944

Dear

In reply to your 5004/9/OAO of 15 Aug 44 there is no doubt that the Italian tribunals in Bari have been deliberately uncooperative in dealing with persons charged with offences at our ammunition depots there.

It should be stated that the tribunals did their best to deceive our local officers as to the cases being tried and the sentences being passed; so soon as our attention was drawn to the situation by our Regional Legal Officer at Bari our Acting Chief Legal Officer went down to Bari and took immediate action to ensure that such behaviour does not occur again. He also conferred with Brig. Palmer at Bari concerning this situation.

General TRAMPA, the officer in charge of the Italian Military Tribunals, was interviewed and informed that such conduct by his tribunals would not be tolerated. He was instructed and he promised to send out strong directives to his officers ordering them for the future to ensure proper trials of such cases and adequate deterrent sentences.

The personnel of the military tribunals has also been changed as a new President has been appointed and the existing Procuratore Militare has been suspended.

In one case, when the Allied Military witnesses were not summoned, General TRAMPA considered the trial completely unsatisfactory and he stated that he would order a re-trial. In the other cases, it is, unfortunately, not possible to increase the sentences or revoke the suspensions.

Furthermore, it has been decided that until the future conduct of the Italian Military Tribunals becomes clear, a more liberal policy will be pursued in the authorization of trial of such cases in Allied Military Courts in the territory.

I hope that by these measures a substantial and immediate improvement in the situation will be secured.

M. S. DASH,
Brigadier,
Executive Commissioner.

SECRET

24A

HEADQUARTERS
SOUTHERN REGION, ALLIED CONTROL COMMISSION
OFFICE OF THE REGIONAL COMMISSIONER
APO 394

R/1138

21 Oct 44

SUBJECT: 14 BAD, BITONTO.

TO : Headquarters, Allied Control Commission,
(Chief of Staff).

1. Under cover of this HQ letter R/1137, dated 21 October 1944, a copy of the Regional Chief Legal Officer's report on the Legal and Judicial Situation in this Region has been forwarded to you. Para 14 of the Report describes the critical situation which has arisen at 14 BAD as a result of sabotage.

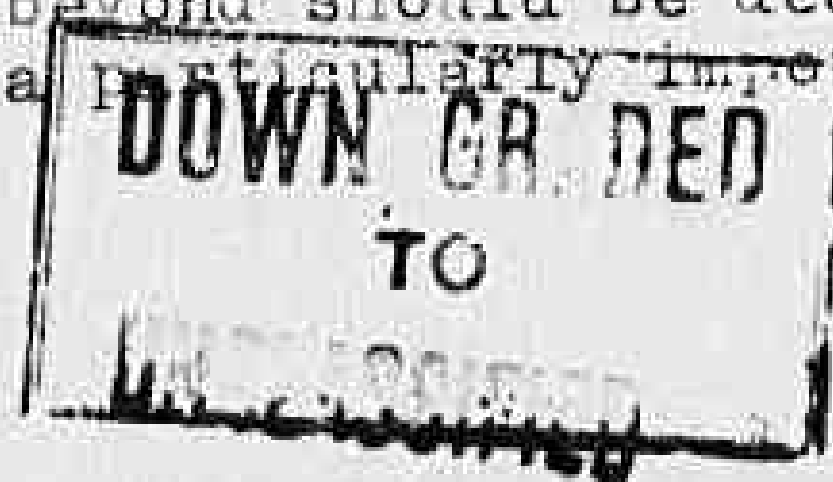
2. The Bitonto dump covers an area of 150 square miles and the ammunition is stacked along a maze of roads and by-roads. The local population has discovered that ammunition includes components which can be used for civilian purposes of various kinds. It is also possible that the population includes true saboteurs who commit acts of direct sabotage to interfere with the war effort.

3. Owing to the inevitable size of the dump, it is practically impossible to protect the ammunition from interference during the night. For instance it is estimated that a complete division of troops would not insure total cessation of sabotage.

4. The result of the foregoing conditions is that really important quantities of ammunition are being sabotaged and -which is particularly dangerous- sabotaged in such a way that the damage is frequently not discovered until the ammunition has reached the front line. Machine gun belts are stolen by the thousands and the cartridges replaced in the boxes or thrown on the ground (3 million rounds have been lost in this way); carrying straps of 3 inch mortar shell boxes have been cut so that shells drop to the ground when the box is lifted; parachutes of illuminant mortar shells have been removed and the shells reassembled so that this cannot be detected; Artillery cartridges are emptied of all or some of the propellants and the shell replaced so that the loss is not detected; bags of cordite are emptied and the bags removed. The C/C of the BAD has stated that the situation is now of real urgency.

5. In order to meet this situation the following steps are recommended:

a) - That the area covered by the dump and, for say, a mile beyond should be declared a Military Zone. Bitonto is not a particularly important commune and no inconvenience to the ci-



Col. Inf.
Chief Judicial Officer
for Chief and Affairs Officer.

.//.

- 2 -
SECRET

24B

vilian administration is expected from such a declaration.

b) - That this HQ attaches a Legal Officer to the BAD HQ and that 2 suitable Ordnance Officers be approved as members of any General Court, which it might be necessary to convene. The Legal Officer will conduct all Summary and Superior Courts which it may be necessary to hold in the Zone and will also be available to preside on any General Courts.

c) - That, insofar as accomodation can be obtained, the maximum number of first-quality Italian troops should be stationed in the military zone for guard purposes. Requisitioning should be freely used to find them accomodation (the commune has not earned the right of any special consideration in this matter). It is suggested that there is little duty which the Italian Army can do at present which is as important as this.

d) - That a Public Safety Officer of a really energetic and aggressive character be attached to 14 BAD. The Police Officer would prosecute before the Military Courts and would put ginger into the Italian soldiers or CC. RR. guards. A little really active saboteur-shooting might do wonders-but in needs an Allied Officer to conduct the chase.

e) - That the widest publicity be given to the creation of the Military Zone and that strongly-worded posters should be erected throughout the zone warning saboteurs of the fate which awaits them if they are caught stealing or in possession of ammunition, its components or other Allied property.

6. These proposals are recommended for consideration as a matter of urgency. Military authorities have NOT been approached, pending your decision or views.

sgd. Temperley

C.E. TEMPERLEY,
Colonel,
Regional Commissioner.

CET/jh

cc: RCLO

Comr, Bari Zone

SECRET

34

PERSONAL &
CONFIDENTIAL

COPY

Major-General Sir Brian H. Robertson Bt.,
Chief Administrative Officer,
Adv

ALLIED ARMIES IN ITALY
ADM.ECHELON .C.M.F.
5001/9/CAO

15 Aug 44.

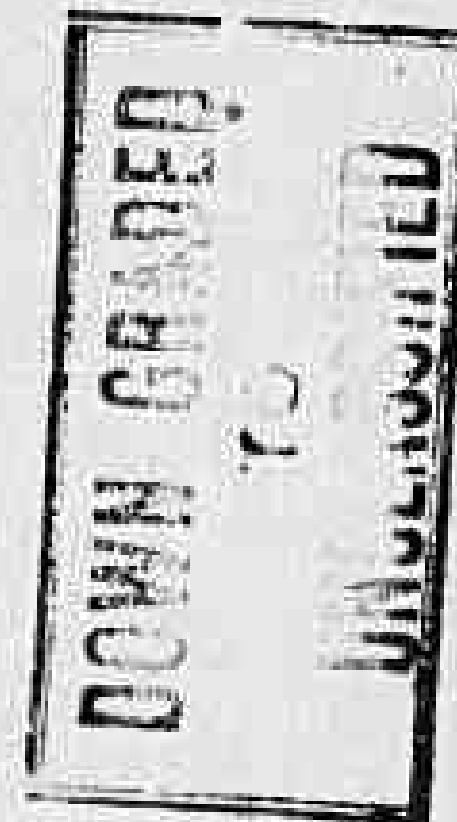
My dear Lush,

General NARES has sent me a copy of his letter 2169/GSI of 11 Aug 44. to you on the question of sentences passed by Italian Courts on certain saboteurs in one of our Ammunition Depots.

I do feel it to be very important that when a flagrant case of sabotage or pilfering is detected action should be swift and drastic. As you know, there is a very great deal of pilfering which goes undetected. It is mainly by the infliction of exemplary punishments on the offenders which we catch that we can hope to deter the many whom we should never catch.

Yours sincerely,

(sgd) B. H. Robertson



Brigadier M.S. LUSH, CBE, MC,
Executive Commissioner,

Depots.

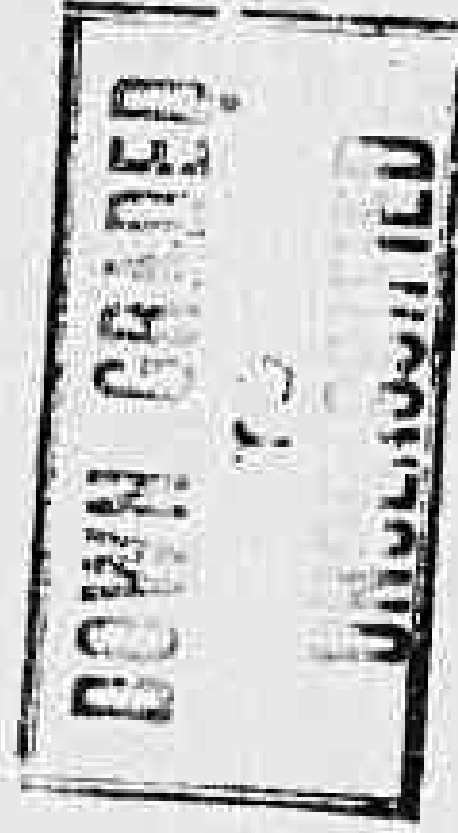
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Yours sincerely,

(sgd) R. H. Robertson

Brigadier M.S. LUSH, CBE, MC,
Executive Commissioner,
Headquarters,
Allied Control Commission.

BHR/emb



38

Cd. Int.
Chief Control Officer,
for Chief of Affairs Officer.

2275

785016

File 4129/11

RC *see by sub commission* *Legat AC 23A*

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

Ref. 2201/74/D

20.8.44.

Subject:- In re Serafina Giuseppe and
Campanale AntonioTo :- RC & MG Section ACC ROME
Copy to CLO Legal Subcommittee ACC ROME ✓

1. Following upon a recent conference held at this H.Q., the CLO being present, application is made for trial by AMG Court of the case against the above individuals, particulars of which are attached.

2. No 6 Base Subarea is anxious that all cases of Sabotage of ammunition from the 14th BAD should be tried by AMG Court. In view of the recent scandalous treatment of such cases by the Tribunale Militare, and of the extremely serious results of these wholesale thefts on Allied troops at the front, this HQ is in complete agreement.

3. The Court would be composed from the panel authorized by you. The prosecutor would be Captain German. The accused would be defended by an Avvocato. The case would be likely to last 2 days, and would be ready for trial, ten days after receipts of charges.

N204/32 20 VIII 44

RC

DL
D.E.S. COUSINS, Lt. Col.
R.L.O.
Region II

22 AUG 1944

A.C.C.

(no end.)

File with Adjutant
3/1

4129/11

see by hand original

Legal S.C. 130

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

R.H.U.

20.8.44.

Ref. :- 2201/70/H

Subject:- AMG Courts

To :- CLO Legal Subcommittee ACC ROME

1. Ref the conference at this HQ 17.8.44, and the decision to try any outstanding cases of Sabotage by AMG Court, it is found on further investigation that of the five groups of cases for which No 6 Base Subarea on 17th June asked for trial by AMG Court, only two refer to Sabotage i.e. in re.

(1) Logrieco - which it will be remembered was tried by the Tribunale Militare on 22.6.44.

& (2) Seraphina and Campanale - particulars in respect of which have been forwarded to RC & MG Section with request for an AMG Court.

2. The other three groups are based on extensive theft of WD property in the one case, and attempted bribery in the other two. It is considered that none of these merit trial by AMG Court, but the two latter enhance the importance of finding a solution to the present impasse in securing conviction in such cases.

A separate communication is being addressed to you on the subject.

NP04130 25 AUG 44

D.E.S. Cousins
D.E.S. COUSINS, Lt. Col.
R.L.O.
Region II

HEADQUARTERS
22 AUG 1944
A.C.C.

4129/5 (2A)

MINUTES OF MEETING HELD AT BARI ON 16 AUG 44

Present :

Col. Wilmer
Lt.Col. Dawson
" " Cousins
Major Franklyn
Capt. German
Lt. Bryce

General Traina

WJ3/ap
19 Aug 44

Gen. Traina

listed the difficulties that were met with respect to his 9 military courts : (1) Scarcity of personnel (2) Crowded prisons. (3) Lack of transport for investigating magistrates, accused, witnesses etc.- He claimed that "libertà provvisoria" had to be granted to make room in the prisons for others. He proposed a court of one judge to make tours of the district.

Col. Wilmer

stated that his main concern at present was the case of a person committing an offence against Allied interests being granted conditional liberty. He wanted them held in prison.

Gen. Traina

explained further difficulties he had to deal with, including lack of office equipment when he started but especially lack of transport which prevented him making personal inspections. He admitted that the situation was not good but said that his liaison officers had reported well to him and he had no idea that the situation was so bad. In reply to a question by Col. Wilmer, he said that he noticed that there was excessive "libertà provvisoria" being granted. He spoke to the Procureure Militaire and to the President of the Tribunale about it also to the Commander of the Army Corps Lecce. As General Madia was due to retire he waited for the arrival of the new President on 1st July.

Col. Wilmer

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Capt. German

stated that the new President had tried some cases but that he could give no details.

Col. Wilmer

Asked whether the General was aware of the number of sentenced persons at present at liberty. 30

Gen. Traina

Stated that he did not wish to defend anyone but he would like to explain the idea behind conditional liberty.

Major Franklyn

then said that with regard to the theft of "grum-mets" at Bitonto he felt convinced that there was no conspiracy behind this trial. He blamed the Commander IX Army Corps for the whole general official tone. He said that many people were trying to blame Major Traversa but that he personally was convinced that Traversa was co-operating well. He (Traversa) had handled 1,297 cases. Changes in officials that had already been made (1) Corps Commander changed 1/8/44 (2) Procuratore Militare Foulard suspended (as Gen. Traina could not dismiss only suspend)

(3) New President of the Court 1/7/44

He suggested that it was possible to try the "grummetts" case again as sabotage instead of theft.

(4) Further suggestion to change is included in new clause to the indictment and a new judge is added

Col. Wilmer and Lt. Col. Dawson

were not in favour of this.

asked for some tangible information on what has been done.

Lt. Col. Dawson

Major Franklyn

said that of the 97 cases of sentenced persons not in prison all had been dealt with in accordance with the Italian law. 60 had not been in custody prior to trial and therefore could not be sent to prison until either their appeals had been heard or the time for filing an appeal had passed.

asked if this was discretionary.

Col. Wilmer

Major Franklyn

stated that it was unless and until made obligatory. In reply to further questions by Col. Wilmer he stated that General Traina could issue a general directive but that he could not really order that in cases affecting Allied interests there should be no liberty provvisoria (condizionale?) However he could say that a person arrested for such an offence should not be granted liberty provvisoria either before trial or pending appeal.

said that there would not be room in the prisons

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Said that there would not be room in the prisons to do this.

Capt. German

stated that only first offenders were granted conditional liberty.

Gen. Traina

said that suspension of penalties should be reported but that this had not been done. The Procurettore Militare pretended that he did not know that we were interested.

Maj. Franklyn

Col. Wilmer

then asked if the General could issue a directive to say that any person arrested for an offence against Allied interests should be kept in jail.

Major Franklyn said that could be done.

Col. Wilmer

also asked for a directive to say that persons convicted of such offences should not be granted conditional liberty.

General Traina agreed that he could do this but did not advise it.

Capt. German

claimed that this had always been the Allied policy and the reason for the special forms issued for arrest in such cases was to have a speedy trial and no provisional liberty.

Col. Wilmer

in reply to a statement to the effect that in many cases the Allied police released a person arrested for such an offence pending trial said that he would take the matter up with the D.P.M.

Major Franklyn

in regard to the 97 persons at liberty after sentence repeated that all these had been accounted for. He said that two directives were necessary. (1) regarding suspended sentences and (2) regarding mandato capture.

Col. Wilmer

asked who was responsible for seeing that persons sentenced were in fact serving their sentences.

Col. Cousin

said that it should be the prisons officer but that there was not one.

Col. Wilmer

said that he would take this matter up with Public Safety.

Lt. Col. Dawson

mentioned a special decree whereby the

many cases the Allied police released a person arrested for such an offence pending trial said that he would take the matter up with the D.P.M.

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Col. Cousin

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Col. Wilmer

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Lt. Col. Dawson

mentioned a special decree whereby the Military Tribunals could try cases where the accused had taken advantage of the state of war. He said that it was followed in Tripolitania.

Gen. Traina

agreed that that was so in cases where the offence had been facilitated by war conditions e.g. bomb damage.

Gen. Traina

was asked to prepare directives on liberty provvisoria and on suspending of sentences. He objected that there were difficulties and in reply to Col. Wilmer's statement that he looked to him to put them right said that he would do his best as he always had done.

Col. Wilmer

said that in any case of difficulty at any time Gen. Traina should contact the R.L.O.s so that A.C.C. could help him.

Gen. Traina

in conclusion stated that he thought that the changes he had made would benefit the situation. It was his opinion that Maj. Traversa was hard working but had made mistakes.

2284

Declassified E.O. 12356 Section 3.3/NND No. 785016

SECRET

- 4 -

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

21A

/rlp.
19 August 1944.

ACC/4129/11/L.

SUBJECT : Sentences in cases of Sabotage of Ammunition.
TO : RC & MC Section.

1. Reference your 283/109/CA of 15 Aug 44.

2. On previous occasions it has been suggested that persons convicted of certain offences might be sent to North Africa for imprisonment, but that was not permitted for practical or political reasons. Probably there is no legal reason against it, as the Italians themselves prior to the present war did send prisoners to Africa to serve sentences.

3. If you wish to carry this matter further I will be glad to prepare a draft of letter setting forth the foregoing.

RICHARD H. WILLER,
Colonel, CAC,
Acting Chief Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. AND M.G. SECTION
APO 394

Phone:
487459

Ref/283/109/CA

15 August 1944

SUBJECT: Sentences in cases of Sabotage of Ammunition.

TO : Legal Sub-Commission.

1. We refer to a letter dated 10 August 1944 Ref/2201/74/D from the Regional Commissioner, Region 2 of which a copy was sent to you by the Regional Commissioner.
2. May we have a draft reply to be sent as an answer to this letter of the Regional Commissioner, Region 2.

W. A. S. Dollard
Major

for NORMAN E. FISKE.
Colonel.
Deputy Executive
Commissioner.

File with Col. Williams.

Deals with Base situation

Major Dollard

now to write

take also returns and.

16/8/44

Col. Williams

has a

returning

and

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

19A

ACC/4429/11/L.

RHW/pa.
12 Aug 44.

SUBJECT : Trial by AMG Court.

TO : RHO (thru R.C.) Region 2.

1. Herewith is a copy of a letter 8 Aug 44 from G.V. Palmer, Brigadier, Comd 6 Base Sub Area to HQ 2 District which evidently was intended for you. It will require a fair, clear and factual answer. No doubt we at this HQ will hear from HQ AAI and will have to give an answer. Please supply us with any facts in addition to those you have already forwarded and particularly advise us what you have done relative to the improper acts of the Italian Military Tribunals and what steps have been taken to right the situation there. No answer appears to be required by you. Any answer will have to come from Legal Sub-Commission.

RICHARD H. WILMER,
Colonel, CAG,
Acting Chief Legal Officer .

SECRET

HQ 2 District CMF
2109 GSI

11 Aug 44

Subject: Co-operation with
Allied Authorities

HQ ACC ✓

Copy to: HQ AAI

HQ Region II ACC
6 Base Sub Area

I wrote to you on 24 Jun requesting an AMG Court to try charges of sabotage of ammunition from 14 BAD involving 29 persons - (please see my 2022/40/GSI of 24 Jun).

In your letter of 2 Jul (ACC/412/11/L) you informed me that arrangements had been made to try 13 of the accused persons by AMG Court.

HQ Region II, however, wrote to my HQ on 13 Jul, stating that none of the cases of sabotage of ammunition could be tried by AMG Courts as the Italian Courts had already tried the cases; this without any of the Military Police, the chief witnesses for the prosecution, being called to give evidence, and without the knowledge of Region II. A copy of Region II letter is appended, as you do not appear to have received one.

Moreover, such sentences as were passed were suspended by the Court, with one exception.

Since the trial and publication of the sentences by the Italian Courts, the pilferage rate in 14 BAD has almost trebled, culminating in the destruction of some five thousand mortar shells by the theft of the silk parachutes inside, and the destruction of 15,000 rounds of MG ammunition by the theft of the stripless belts.

I request, therefore, that the fullest enquiry into the conduct of these trials be instituted by you and the officials found responsible be at once removed: also that the suspension of the sentences be revoked.

I again ask, as requested in my letter 2022/15/G of 24 Jul, that the Italian authorities be told to take the gravest view of these offences, which may cause the loss of lives of unknown numbers of Allied soldiers, and not to treat them as petty larceny or

Not
received
26

6806 Legal file

18A

7B

the prosecution, knowledge of Region II. A copy of Region II letter is attached, as you do not appear to have received one.

Moreover, such sentences as were passed were suspended by the Court, with one exception.

Since the trial and publication of the sentences by the Italian Courts, the pilferage rate in 14 RAD has almost trebled, culminating in the destruction of some five thousand mortar shells by the theft of the silk parachutes inside, and the destruction of 15,000 rounds of 12.7 mm ammunition by the theft of the stripless belts.

I request, therefore, that the fullest enquiry into the conduct of these trials be instituted by you and the officials found responsible be at once removed: also that the suspension of the sentences be revoked.

I again ask, as requested in my letter 2022/16/G of 24 Jul, — *Not received* — that the Italian authorities be told to take the gravest view of these offences, which may cause the loss of lives of unknown numbers of Allied soldiers, and not to treat them as petty larceny or unintentional sabotage.

DOWN GRANTED
UNCLASSIFIED

E. J. Nard

Major General
Commanding

VJ

Chief of Staff
for

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

Ref: 2201/72/B

13 July 44.

Subject: A.M.C. Courts

To: HQ 2 District

- 1 Ref 2022/46/GS1 of 24.6.44. addressed to HQ AAI with copy to this HQ, and further to this HQ letter 2201/72/B of 27.6.44, it is regretted that none of the Bitonto ammunition theft cases can now be tried by AMG Courts, which had been fixed for July 17th.
- 2 The reason is that it has now transpired, that all have already been tried by Italian Courts.
- 3 In the weekly returns of the forthcoming trials, sent by the Italian Courts to the IO, no mention was made of the more serious cases, though in fact these were tried on June 20th, and without any of the Military Police - the chief witnesses for the Prosecution - being called to give evidence.
Sentences imposed were 10 years, 4 years and various terms of months, some of which, again without notification to the IO, were suspended.
- 4 Further investigation has now revealed that 145 persons, reported as sentenced to terms of imprisonment for offences against Allied interests by the Tribunale Militare of Bari, are not in prison at all.
- 5 The President and the Procurator of the Court have now been interviewed, and called upon for the arrest within 5 days of the official responsible. Since this has not occurred, and an attempt at explanation is totally unsatisfactory, application is being made to HQ ACC for an enquiry by representatives of the Public Safety Branch at HQ ACC, since I have insufficient staff to undertake such an enquiry.
- 6 Owing to the co-operation of the Area Commander, and strong action taken, the Italian Naval authorities recovered D'Isanto, charged with murder of an Allied soldier, whom they had allowed to escape five days before trial.
An AMG Court sentenced D'Isanto to 13 years imprisonment and MASTROVITO who was convicted of murder was sentenced to Death.

(SGd) ???

JOHN T. ZELLARS
Colonel Inf.

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to HQ ACC for an enquiry by representatives of the Public Safety Branch at HQ ACC, since I have insufficient staff to undertake such an enquiry.

6 Owing to the co-operation of the Area Commander, and strong action taken, the Italian Naval authorities recovered D'Isanto, charged with murder of an Allied soldier, whom they had allowed to escape five days before trial.

An AMG Court sentenced D'Isanto to 15 years imprisonment and MASTROVITO who was convicted of murder was sentenced to Death.

(sgd) ? ? ?

JOHN T. ZELLARS

Colonel Inf.

Regional Commissioner

Region 2.

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

Legal J.C. (KHA)
No 04028 10.VIII.44

10 AUG 44

Ref. 2201/74/D

Subject:- Sentences in cases of Sabotage of Ammunition

To :- EC & MC Section ACC ROME

Copy to:- CLO Legal Subcommission Rome
No 2 District
6 Base Subarea
14th BAD.

1. An AMG Court has sentenced Birardi Michele to 20 years imprisonment for theft and sabotage of ammunition.

While under Anglo Saxon Law he would certainly have been convicted of intentional Sabotage and received the Death penalty, interpretation of intention as defined by Article 43 of the CP, divided opinion among the Court.

By a majority vote, he was therefore convicted of unintentional sabotage only.

2. The evidence given by the OC 14th BAD as to the magnitude of depredations on ammunition was startling indeed as will be seen from the records of the case. Moreover he states it as a fact that lives of Allied soldiers at the front can hardly fail to have been lost through them - particularly from short firing.

3. The opinion is quite generally held, and even by the Court, that a sentence of 20 years penal servitude will not have the deterrent effect so essentially desired since these thefts are on the increase. The reason for it is that it is widely and doubtless correctly believed that as soon as the Allies leave, in all but a few political cases, persons condemned for offences against them will be liberated. The fact that no check is made on which such persons are even now serving sentence, enhances this belief.

4. It was therefore requested by 6 Base Subarea and agreed by the Court, that a recommendation would be forwarded to you for an exception to be made in convictions for Sabotage, and that sentences imposed for the same should be served overseas.

9/6/47

cc. file 4129/14

2293

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4. It was therefore requested by 6 Base Subarea and agreed by the Court, that a recommendation would be forwarded to you for an exception to be made in convictions for Sabotage, and that sentences imposed for the same should be served overseas.

Short of the Death penalty it is felt that no other measure will provide sufficient deterrent effect.

26

John I. Williams
JOHN I. WILLIAMS
Colonel Inf.,
Regional Commissioner.

2294
COFY-rlp

SUBJECT : Trial by AMG Court.

6BSA/181/7G
8 Aug 44

HQ 2 District

I wish to complain in the most forceful terms and ask that my complaint be forwarded to higher authority to be implemented by the strongest possible action.

I have to report that the lack of support given to the military authorities in the suppression of sabotage cases by ACC has reached a stage that makes security of military stores (particularly in the 14 RAD, BITONTO), completely farcical.

I have made representation for an Allied Military Court to try for sabotage no less than 8 cases involving 29 persons. So far, the only result of my appeal has been to arrange for AMG Court in one solitary case, which is due to take place on the 8 Aug 44, the man in question having been arrested on 16 May 44. This is the case of Birardi, Michele, who is charged with sabotage and theft of amm. At the same time, an AMG Court has been convened to try Gaudio Martire on the charge of murder of an Allied soldier.

I am bound to point out in the strongest possible terms that the actual murder of one Allied soldier is a matter of very little importance compared with potential murder of unknown numbers of Allied soldiers fighting in the front line, by the sabotage of amm which is at present going on in 14 RAD.

It is understood that ACC ordered the trial by AMG Court of three other cases involving nine persons, but that by some means or another, these persons were found to have been tried already by the Italian authorities themselves and given sentences of such a trivial nature as seriously to bring into disrepute the whole ACC legal system.

In the first of these cases, De Bari, Masiello and Virgilio, all three were awarded five months imprisonment for being in possession of explosives. Only one, however, is serving sentence. The second case concerns Marino and De Gennaro, charged with the sabotage of amm by theft of the grumets protecting the driving bands of heavy caliber shells. For this offence, Marino was sentenced to six months imprisonment and fined 600 lire, while De Gennaro had been sent to prison for four months and fined 400 lire, BUT IN BOTH CASES THE SENTENCES HAD BEEN SUSPENDED. The final case of Barone, Ruggero, Chiapperino and Regui who were charged with sabotage, was again treated with contemptuous leniency.

I ask that a stringent enquiry be made into these cases with a view to discovering whether there is sufficient evidence to indict the Italian authorities concerned for conspiracy and as a result to vitiate the sentences imposed and re-try all three cases with due regard to the gravity of the charges.

That two of these three cases to which I have referred were found to have been tried without the invariable notice (given weekly to ACC IO) of cases to be tried in

2 2 9 5

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I ask that a stringent enquiry be made into these cases with a view to discovering whether there is sufficient evidence to indict the Italian authorities concerned for conspiracy and as a result to vitiate the sentences imposed and re-try all three cases with due regard to the gravity of the charges.

That two of these three cases to which I have referred were found to have been tried without the invariable notice (given weekly to ACC LO) of cases to be tried in the ensuing week, when the order for their trial by the AMG Court was made, passes all possibility of coincidence, and it is abundantly obvious that the Italian authorities are not only failing to cooperate properly with the ACC Legal Authorities, but are very successfully making a laughing stock of the Allied security measures.

It is utterly impossible, with the limited guard personnel available to this HQ, to safeguard WD property essential to the successful prosecution of the war, unless, when offenders are apprehended after considerable effort on the part of all concerned, they are tried and, if found guilty, given exemplary sentences. At the moment, the whole picture is one of connivance at wrong doing, condonation of offences and contempt for Allied authority. If any proof were need of the dire results of this mismanagement, I have to inform you that since the publication of the trivial sentences referred to above in the town of BITONTO, the pilferage rate in 14 BAD has almost trebled culminating in the destruction of some five thousand mortar shells by the theft of the silk parachutes and 15,000 rds of M.M.G. ammunition by the theft of the stripless belts.

I am informed that the excuse used by the Italian legal authorities to justify their frivolous treatment of these serious cases is that the parties charged have only committed "unintentional sabotage." This phrase covers the theory that the criminals had as their primary motive personal gain and not the direct intention to sabotage the ammunition. That the ammunition is in fact effectively sabotaged is never questioned, but is treated as purely incidental to the offense of pilferage and is not taken into consideration. This prevarication is intolerable. If a man steals to enrich himself and in so doing effects a sabotage, then he is a saboteur and should be so treated. It is a well settled maxim of all civilized legal systems that a man is taken to intend the natural consequences of his own acts. When the act of theft naturally has as its consequence the neutralization or destruction of ammunition, then it is sabotage. I ask that this view may not only be represented, but enforced with the utmost vigour in future.

TER/ETM

Brigadier,
Comd 6 Base Sub Area.Copy to ACC LO
62 SIB
14 RAD
AQ

2297

Declassified E.O. 12356 Section 3.3/NND No. 785016

26

Copy to ACC LO
62 SIB
14 RAD
AQ

4129/11

HEADQUARTERS
ARMED CONTROL COMMISSION
R.C. AND H.C. SECTION
A/C 594

15A

Ref/064/107/C.A.

7 August 1944

SUBJECT: Italian judicial situation at Bari.

TO : Regional Commissioner, Region 2.

1. This is in answer to your letters

2201/7/1/5

5/7/44

— 9A

723/7/1/1

12/7/44

— 15A

2201/7/1/1

14/7/44

— 12A

} file 4150

2. R.C. and H.C. have discussed with the Administration Section the problem which you outline. It is understood that the Legal Sub-Commission has received a long report relative to the Italian Military Tribunals, has received a short report from the R.L.C. Region 2 and a copy of the report of Signor Giannantoni of the Ministry of Justice who has returned from Bari. It is also understood that as a result of a conference here between the R.L.C. and the Legal Sub-Commission, 5 August 1944, that he will submit a detailed report giving factual data as to the failures of the Italian Civil Courts to function properly.

3. The Legal Sub-Commission advises this section that it will discuss with the Minister of Justice the reports of Signor Giannantoni and his recommendations.

William G. Dillard
Major

for WESLEY E. PIERCE,
Colonel,
Deputy Executive
Commissioner.

20

Administration Sec. (2 copies)

362

13 July 1944

Subject:- Sabotage

To :- RC & MG Section ACC Naples

Copy to:- CLO Legal Subcommittee - SALERNO -

1. Ref 264/71/CA, the seriousness of the ammunition thefts has been assiduously impressed on the Italian Judicial officials, and since sentences imposed by them have been so totally inadequate, it is proposed in any future such case to apply for their trial by A.M.G. Court.

This H.Q. letters 2201/74/D of 5.7.44 and 2201/74/A of even date refer.

2. It is however reported that thefts of ammunition latterly ~~show~~ a district decrease in number.

John. T. ZELLARS.,
Colonel Inf.,
Regional Commissioner
Region II.

LEG. SUB. COMMISSION

1001

CL RK5

13A

**HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.**

16 July 1944.

ACC/4129/11/L.

SUBJECT : Bitonto Ammunition theft case and Bari Tribunale Militari.

TO : R.C. & M.G. Section.

1. Reference letter of Regional Commissioner, Region 2, 2201/74/D dated 5 July 1944 addressed to you, copy to this Sub-Commission. I am enclosing a copy of a letter I have written today to the Regional Legal Officer, Region 2.

2. The situation at BARI has for a long time been deplorable and apparently still is deplorable.

3. While as you will see from the enclosed letter I am making every endeavour to ensure that legal officers present take all possible steps to avoid a repetition of the things depicted in the letter of the Regional Commissioner, it is obvious that the assistance of Public Safety Sub-Commission will be required insofar as the imprisonment of the accused after conviction is concerned.

**RICHARD H. WILMER.
Colonel OAC.
Acting Chief Legal Officer.**

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

16 July 1944.

REFERENCE : ACC/4129/11/L.

SUBJECT : Bitonto Ammunition theft case and Bari Tribunale Militari.

TO : Regional Legal Officer (thru Regional Commissioner), Region 2.

1. Reference letter 2201/74/D dated 5 July 1944 addressed to RC & ME Section, copy to this Sub-Commission, from Regional Commissioner, Region 2.

2. It is indeed regrettable that the Italian Courts should have been allowed to try these cases pending decision at this Sub-Commission.

3. Definite arrangements will have to be made by your legal officers so that when it is decided at Regional HQ that the case is one in which a recommendation will be made to this HQ that the case be tried by an Allied Military Court the Italian authorities be directed to hold the accused individuals until decision of this Sub-Commission has been transmitted to you either approving or disapproving a trial in an Allied Military Court.

4. As the situation appears to me this Sub-Commission has had to consider three cases, prepare the charges and all to no avail.

5. Likewise it is regrettable that the Italian authorities do not seem to be willing to deal fairly with these cases insofar as imprisonment is concerned when the accused are found guilty. Obviously legal officers are not in a position to check up on the whereabouts of accused persons after they have been convicted. It would seem to me that this must be a matter for Public Safety Sub-Commission to deal with.

6. Incidentally as reflecting on this general situation I have received no report from you regarding the visit of Signore GIANNANTONIO of the Ministry of Justice to BARI, he having been sent there at our request to improve the unsatisfactory situation existing in the Italian Courts at BARI.

7. I must emphasize again the fact that the legal officers who are working with the Italian Courts must make further efforts to avoid the situation set forth in the above mentioned letter of the Regional Commissioner.

RICHARD H. WILMER
Colonel CAC 13
Acting Chief Legal Officer

RHW/wow.

4129
HEADQUARTERS,
ALLIED CONTROL COMMISSION,
ALTO 524

Regional Control and Military Government Section.

Ref: 264/71/GA.

7 July 1944

SUBJECT: Sabotage.

TO : Regional Commissioner,
Region II.

- 84 (4129/71/GA) follows 7B (4129/71/GA)
1. I refer to No. 2 District Letter 2022/46 GHI dated 24 June 44 and attach the reply of the Legal sub-Commission.
 2. The state of affairs as described by G.O.C., No. 2 District appears very serious. Although admittedly sufficient preventive measures cannot be employed owing to lack of military personnel, you should impress upon the Prefect the disgraceful state of affairs which must result in damage to the Allied war effort and casualties to Allied personnel, and you should tell him in the strongest possible terms that he and his officials must take every possible step to prevent this sabotage. You should also discuss the question with the G.O.C., No. 2 District and explain to him the policy of this Commission regarding Allied Military Courts and if possible show him that the Italian Courts are aware of their responsibility and are inflicting severe sentences.

3. The Acting Chief Commissioner looks to you to see that everything possible is done to protect the Allied Forces from this serious outbreak of sabotage.

MSL/JC.

Brigadier,
Executive Commissioner.

2. The state of affairs as described by G.O.C., No.2 District appears very serious. Although admittedly sufficient preventive measures cannot be employed owing to lack of military personnel, you should impress upon the Prefect the disgraceful state of affairs which must result in damage to the Allied war effort and casualties to Allied personnel, and you should tell him in the strongest possible terms that he and his officials must take every possible step to prevent this sabotage. You should also discuss the question with the G.O.C., No.2 District and explain to him the policy of this Commission regarding Allied Military Courts and if possible show him that the Italian Courts are aware of their responsibility and are inflicting severe sentences.

3. The Acting Chief Commissioner looks to you to see that everything possible is done to protect the Allied Forces from this serious outbreak of sabotage.

MBL/JG.

Brigadier,
Executive Commissioner.

Copy to: Adm Sec (Attn: Legal Sub-Com).

LEGAL SUBCOMMISSION	
CCO	✓
CCIO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	

4129

HEADQUARTERS,
ALLIED CONTROL COMMISSION,
APO 594

Regional Control and Military Government Section

Ref: 264/72/CA.

7 July 1944

SUBJECT: Sabotage.

TO : Headquarters,
Allied Forces in Italy,
G. M. P.

Not received at Legat

1. I refer to your letter AM/5084/1 (AS) dated 30 June 44 and attach a letter sent to No. 2 District by the Legal Sub-Commission.
2. It is the policy of the Commission to leave as many cases as possible with the Italian Courts. It has generally been found that the sentences imposed by the Italian Courts are sufficient and there is no evidence in these cases that the sentences hitherto imposed have been inadequate or that justice has not been given.
3. Every assistance will be given to prevent these acts of sabotage and a special direction has been sent to the Regional Commissioner to this effect. Cumulative measures are, however, of relatively minor value and preventive measures must be taken. The root of the trouble appears to be lack of adequate guards for these large depots of ammunition in boxes which contain material of which the population is in dire need. Can an attempt be made to remedy the shortage?

MSH/37.

7507/511

Brigadier,
Executive Commissioner,
For Chief Commissioner.

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3. Every assistance will be given to prevent these acts of sabotage and a special direction has been sent to the Regional Commissioner to this effect. Quantitative measures are, however, of relatively minor value and preventive measures must be taken. The root of the trouble appears to be lack of adequate guards for these large depots of ammunition in boxes which contain material of which the population is in dire need. Can an attempt be made to remedy the shortage?

MSL/JC.

MSL/JC

Brigadier,
Executive Commissioner,
For Chief Commissioner.

18

Adm Sec, attn: ✓
Copy to: Legal Sub-Commission

LEGAL SUB COMMISSION	
Adm Sec	✓
Chief Counsel	✓
Chief Clerk	
Legal Section	
Q. RKS	



HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION II

C

O

P

Y

5 July 1944.

Ref. :- 2201/74/D

SUBJECT: - BITONTO Ammunition theft case and Bari Tribunale Militari.

TO :- RC & MG Section ACC Naples
Copy to: - CL O Legal Sub-Commission
Copy to: - RPO

A. Ref. ACC/4129/11/L of 23/6/44, an AMG Court had been fixed for July 17th but in the absence of further instructions from you, it is regretted that those three cases cannot now be so tried, since they have already been tried by the Italian Military Tribunal of Bari.

The circumstances are as follows .

1. In order to obviate another rung in the ladder whereby applications for AMG Courts are submitted to you, it has been the practice for such case to be sent direct to this H.Q. and for the LO concerned to be notified officially when the application is approved, and for him then to notify the Italian Authorities.
2. In the instant cases, included in the weekly returns of forthcoming trials received by the LO Bari, was that fixed for June 20th of MARINO & DE GENARO for "theft of a few pieces of rope". Naturally he did not identify such with any of the Bitonto Ammunition theft cases. It was later notified to the LO that these persons had received 6 and 4 months imprisonment respectively, and it now transpires that without any notification to the LO, the Prison Governor was instructed that both sentences were suspended.
3. Without any notification whatever of forthcoming trial, Barone, Chiapperini Bagnò and Ruggiero were on 1.7.44 notified as having also been tried on June 23rd, and received sentences of 4 years, 9 months and 9 months. It is significant that none of the STB (the chief witnesses for the prosecution) were ever called to give evidence.
4. Di Bari, Masiello and Virgilio have now been notified as having been tried for eg. "theft of 2.5 Kilograms of explosives" and each to have received 5 months imprisonment. Furthermore, inquired reveal that Di Bari is not, and never has been in prison, and that the sentence on Masiello was suspended without the LO's being so informed.

B. Suspicious having arisen from the above facts, a check was made of returns received by the LO from the Tribunale Militare during two separate weeks, with notifications sent by it to the Director of the Prison.

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2. In the instant cases, included in the weekly returns of forthcoming trials received by the LO Bari, was that fixed for June 20th of MARINO & DE GEN- NARO for "theft of a few pieces of rope". Naturally he did not identify such with any of the Pitonto Ammunition theft cases. It was later notified to the LO that these persons had received 6 and 4 months imprisonment respectively, and it now transpires that without any notification to the LO, the Prison Governor was instructed that both sentences were suspended.
3. Without any notification whatever of forthcoming trial, Barone, Chiapperini Bagnò and Ruggiero were on 1.7.44 notified as having also been tried on June 23rd, and received sentences of 4 years, 9 months and 9 months. It is significant that none of the SIB (the chief witnesses for the prosecution) were ever called to give evidence.
4. Di Bari, Masiello and Virgilio have now been notified as having been tried for eg. "theft of 2.5 Kilograms of explosives" and each to have received 5 months imprisonment. Furthermore, inquired reveal that Di Bari is not, and never has been in prison, and that the sentence on Masiello was suspended without the LO's being so informed.

B. Suspicious having arisen from the above facts, a check was made of returns received by the LO from the Tribunale Militare during two separate weeks, with notifications sent by it to the Director of the Prison.

1. In the week ending June 23rd, out of a total of 75 persons tried, 25 who were sentenced to terms of imprisonment have never before or since trial been sent to prison, and the Director of the Prison was instructed that sentences on 9 others were suspended, without any notification to that effect to the LO.

2. In the week ending May 26th, out of a total of 55 persons tried, 16 who were sentenced to imprisonment have never been heard of by the Director of the Prison and sentences on 10 others were suspended without the LO's being so informed.

The Director of Bari Prison states that there can be no question of persons sentenced by the Tribunale Militare being imprisoned elsewhere.

There is, of course, no guarantee that any civilian tried for offences effecting Allied interests is actually serving his sentence, since there is no Prisons Officer to

- 2 -

check the matter. In the circumstances reported above the likelihood of a ramp with financial benefit to some official cannot be excluded, but would be difficult to prove.

The President of the Tribunale Militare and his Procuratore will be required to give an explanation of the Bitonto trials and it may be considered that a representative of the Public Safety Branch should visit Bai to investigate the prison side of the question.

In the meantime it is assumed that not even in the case of Barone, Ragno, Chiapperir and Ruggiero can be quashed and a retrial by AMF Court ordered instead.

(signed) JOHN T. ZELLARS,
Colonel Inf.,
Regional Commissioner,
Region II.

2309

Declassified E.O. 12356 Section 3.3/NND No. 785016

16

Regional Commissioner,
Region II.

THAN HEAD QUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

8A
MIV/guf

AC/4129/11/L
ACC/4129/11/L

2 Jul 44

SUBJECT: Trials by AMG Courts.

TO : HQ 2 District CEF.

1. Your letter of 24 Jun 1944 (ref. 2022/16/GSI) has been referred to this Subcommittee for reply.

2. It is regretted that it is not possible to try in AMG Courts all the cases referred to. Charges have been prepared in four cases and they have already been forwarded for trial in an AMG Court. Charges are being prepared here at this time for trial of two additional cases in an AMG Court. These cases in the aggregate involve 13 accused persons.

3. It is also appreciated that the Italian Courts in Bari have not functioned altogether speedily or satisfactorily despite repeated efforts on the part of this Subcommittee. The Minister of Justice is sending a selected official to Bari within the next few days to take steps to better the situation there.

4. In the meantime it is necessary to leave the trials of most of these cases to the Italian Courts, which generally are producing satisfactory results in most places. It is hoped that the above mentioned trials by AMG Courts will serve as a deterrent to saboteurs and others stealing or interfering with Allied property.

5. I should add that, while the legal personnel situation makes the holding of AMG Courts in Region 2 extremely difficult, beyond that the Chief Commissioner has given express directions that circumstances must be exceptional to permit the holding of AMG Courts anywhere in Italian Government Territory.

RICHARD M. WINNER
Colonel, GAC
Acting Chief Legal Officer.

Copy to HQ 2 District Section.

4119/6
✓HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.C. SECTION
APO 394

Legal

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~~1/14~~
~~1/14~~
~~1/14~~

Ref/264/62/CA

29 June 1944

SUBJECT: Sabotage.

TO : Admin. Section (for Legal Sub-Comm.)

There is forwarded to you letter (2022/46 GSI) of 24 June 44 received from Hq. No. 2 District. Will you please reply to this letter forwarding copy to this Hq.

Norman E. Fiske

NORMAN E. FISKE
Colonel
Deputy Executive
Commissioner

JSR/JR

1/4

SUBJECT : Sabotage.

HQ 2District CMF
2022/46/ GSI

24 Jun 44.

HQ ACC

Copy to: HQ AAI
HQ Region II ACC
6 Base Sub Area (your 6 BSA/182/15 G refers).

1. Application was made by 6 Base Sub Area on 3 May 44 to LLO ACC BARI, for an Allied Military Court to try nine cases of theft and sabotage to ammunition from 14 BAD. The request was refused, owing to shortage of officers available to sit on the Court. An application to try a further twenty cases has since been submitted, no answer has yet been received.
2. Thefts from the BADs in 2 District have assumed serious proportions. The depots are so large, that adequate guarding is quite impossible.
3. Even more serious than the thefts is the sabotage of ammunition. Hundreds of boxes of machine gun ammunition in 14 BAD alone have been opened only for the cartridge belts which are respun into string; the boxes are subsequently reclosed and secured in the normal manner; propellant charges are stolen out of 25 pr shells and other ammo is rendered useless. The result is that the ammunition may be issued in good faith and the gunners suddenly find during a battle that they have nothing but useless ammunition.
4. I regard these thefts and breaking down of ammunition as a most serious form of sabotage and I consider that they should be dealt with in the severest manner by Allied Military Courts. I would be grateful if you would instruct your legal branch to re-consider the matter.

EMB/

Major General
Commanding

ART/pa

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

REFERENCE : ACC/4129/II/L.

23 Jun 44

SUBJECT : Cases of Thefts and Sabotage.

TO : RLO (thru RC) Region 2.

1. I am directed to say that the cases of :
 - (a) De Bari, Masiello and Virgilio;
 - (b) Marino and De Gennaro; —
 - (c) Barone, Ragno, Chiapperini and Ruggieri —
 are to be tried by an Allied Military Court.
2. The charges to be preferred against the above-named framed under Italian law are enclosed herewith together with the relevant documents.
3. In the case under (b) above attention is drawn to the footnote to the charges involving a possible variation in regard to the first-named accused, and to the necessity for a closer examination of the facts concerning the nature of the participation of the second-named accused.
4. In the case under (c) above attention is drawn to the footnote to the charges which concerns the question of aggravation.

By

A. R. THACKER, —
Lt. Colonel,
for Chief Legal Officer. 12

Enclos.: Copies charges and files.

CHARGE AGAINST :-

1. DI BARI, Filomena
2. MASIELLO, Teresa
3. VIRGILIO, Laura.

Retention of military objects pursuant to Articles 166 Military Penal Code of Peace and 47 Military Penal Code of War in that they at PAJO del Colle on 8 March 1944 were found in possession of warlike and of other objects of military armament which they retained without being able to show that such had legitimately ceased to belong to the military services of the Allied Armed Forces.

- 1° DI BARI Filomena
2° MASIELLO Teresa
3° VIRGILIO Laura

I M P U T A T E

Di ritenzione di oggetti militari = art. 166 C.P.M.P. e 47 C.P.M.G.* perchè, in Palo del Colle, 1°8 marzo 1944, venivano trovate in possesso di "cordite" e di altri oggetti di armamento militare, che detenevano, senza poter dimostrare che gli oggetti stessi avessero legittimamente cessato di appartenere al servizio militare delle Forze Armate Allente.

2.

SC

1° DI BARI Filomena

2° MASIELLO Teresa

3° VIRGILIO Laura

I M P U T A T E

Di ritenzione di oggetti militari = art. 166 C.P.M.P. e 47 C.P.M.G. =
perché, in Palo del Colle, l'8 marzo 1944, venivano trovate in posses-
so di "cordite" e di altri oggetti di armamento militare, che ~~riteneva~~
no, senza poter dimostrare che gli oggetti stessi avessero legittima-
mente cessato di appartenere al servizio militare delle Forze Armate
Allente.

no, senza poter dimostrare che gli oggetti stessi avessero legittimità
mente cessato di appartenere al servizio militare delle Forze Armate
Allente.

CHARGES AGAINST :-

1. BARONE, Natale.
2. BAGNO, Francesco
3. CHIAPPERINI, Michele
4. RUGGERI, Vito.

FIRST
CHARGE

- (a) of continuous aggravated theft pursuant to Articles 81, 110, 624, 625 paras (2), (5) and (7), 61 para (11) of the Penal Code, in that at BIRONTO on and before 25 April 1944, by acts in execution of the same criminal intent and in common guilt with the object of gain did possess themselves of parts of projectiles and machine gun belts and other parts of articles of armament, taking the same from the munitions depot of the Allied Forces, using violence on the things whilst abusing their situation as employees of the Allied Forces.

SECOND
CHARGE

- (b) of continuous destruction of military objects pursuant to Articles 81 and 110 of the Penal Code and Article 158 of the Military Penal Code of War in that in the said circumstances, by removing the parts of the above said objects did render that part of the munitions unserviceable from which the parts in question were taken.

NOTE.

In so far as concerns the charge under (a) it is necessary to enquire further as to the common guilt which does not appear very clearly from the report.

If such common guilt does not exist and each acted on his own account then there would be less aggravation than that under para. (5) of Article 625 of P.C.

- 1° = BARONE Natale
2° = BAGNO Francesco
3° = CHIAPPERINI Michele
4° = RUGGIERI Vito

48

IMPUTATI

- a) = di furto aggravato continuato art. 81, 110, 624, 625, n. 2, 5 e 7 u.p., 61 n.11 C.P. = perchè, in Bitonto, il 25 aprile 1944 e precedentemente, con azioni del medesimo disegno criminoso ed in correità, si impossessavano, per trarne profitto, di parti di proiettili, di nastri di mitragliatrici e di altre parti di oggetto di armamento, togliendo al tutto dai depositi di munizioni delle FF.AA. Alleate, usando violenza sulle cose ed abusando dell'opera prestata alle dipendenze delle FF.AA.
- b) = di distruzione continuata di cose militari = art. 81, 110 C.P. e 158 C.P.M.G. = perchè, nelle dette circostanze, con azioni del medesimo disegno criminoso, sottraendo le parti degli oggetti militari di cui al capo a), rendevano inservibili le munizioni cui le parti sottratte si riferivano.

=====

N. B. = Per quanto riguarda il capo a) bisogna indagare sulla correità, che non risulta bene precisata nel verbale. Ove tale correità non esistesse ed ognuno avesse agito per proprio conto, verrebbe meno l'aggravante di cui al n. 5 dell'art. 625 C.P.

1° = BARONE Natale

2° = BAGNO Francesco

3° = CHIAPPERINI Michele

4° = RUGGIERI Vito

I M P U T A T I

a) = di furto aggravato continuato = art. 81, 110, 624, 625, n.2, 5 e 7 U.P., 61 n.11 C.P. = perchè, in Bitonto, il 25 aprile 1944 e precisamente, con azioni del medesimo disegno criminoso ed in correttezza, si impossessavano, per trarne profitto, di parti di proiettili, di nastri di mitragliatrici e di altre parti di oggetti di armamento, togliendo il tutto dai depositi di munizioni delle FF.AA. alleate, usando violenza sulle cose ed abusando dell'opera prestata alle dipendenze delle FF.AA.

b) = di distruzione continuata di cose militari = art. 81, 110 C.P. e 156 U.P.M.G. = perchè, nelle dette circostanze, con azioni del medesimo disegno criminoso, sottraendo le parti degli oggetti militari di cui al capo a), rendevano inservibili le munizioni cui le parte sottotrattate si riferivano.

=====

N.B. = Per quanto riguarda il capo a) bisogna indagare sulla correttezza, che non risulta bene precisata nel verbale.

Ove tale correttezza non esistesse ed ognuno avesse agito per proprio

gliando il tutto dai depositi di munizioni delle FF.aa. Alleate, usanza di violenza sulle cose ed abusando dell'opera prestata alle dipendenze delle FF.aa.

b) = di distruzione continuata di cose militari = art. 81, 110 C.P. e 150 C.P.M.G. = perchè, nelle dette circostanze, con azioni del medesimo disegno criminoso, sottraendo le parti degli oggetti militari di cui al capo a), rendevano inservibili le munizioni cui le parte sottratte si riferivano.

=====

N.B. = Per quanto riguarda il capo a) bisogna indagare sulla correttezza, che non risulta bene precisata nel verbale.

Ove tale correttezza non esistesse ed ognuno avesse agito per proprio conto, verrebbe meno l'aggravante di cui al n.5 dell'art. 625 C.P.

3A

CHARGE AGAINST

1. MARINO, Francesco

FIRST
CHARGE

- (a) of continuous aggravated theft pursuant to Articles 624, 625 para (7), 61 para (11), 81 of the Penal Code, in that at BIFFONTO on and before the 16 April 1941, by acts in execution of the same criminal intent possessed himself with the object of profitting therefrom of "grenades", in quantity not less than 60, taking them from an ammunition depot of the Allied Forces whilst abusing his situation as employee of said Allied Forces.

SECOND
CHARGE

- (b) destruction of military materials pursuant to Article 158 of the Military Penal Code of War and Article 81 of the Penal Code in that in the circumstances aforesaid by acts in execution of the same criminal intent did render the projectiles unserviceable by removing the "grenades" mentioned in the preceding paragraph from where they should be placed.

CHARGE AGAINST

2. DE GENARO, Donato.

For concurrence in the offences set out in the preceding paragraphs (a) & (b) pursuant to Articles 110, 118, 81, 624, 625 para (7), 61 para (11) of the Penal Code and Article 158 of the Military Penal Code of War, in that he cooperated in the offences ascribed to the first-named, promising assistance and aid after the commission of the offence and lending such assistance and aid for the acquisition of the "grenades" which were found in part in his house.

H.B.

1 - In regard to the first named accused it is necessary to enquire into the previous thefts.

If it appears that there were no other thefts other than the one surprised in flagrante delicto, the continuity (Art. 81 P.C.) must be excluded.

2 - As to the second accused it is necessary to enquire more closely into the facts either before or during the trial.

If the element of concurrence does not appear, in as much as the accused may have received the "grenades" from the first accused without previous arrangement, the crime committed would be that of "receiving" pursuant to Arts. 612 & 61 Penal Code.

Moreover, if it appears that the accused had received nothing from the first named and that the objects found in his house were received by him from some person unknown without its being possible to define the requisite conditions to sustain either theft or receiving, the offence committed would be pursuant to Article 166 of the Military Penal Code of Peace and Art. 47 of the Military Penal Code of War.

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- 1° = MARINO Francesco
2° = DE GENNARO Donato

3B

I M P U T A T I

Il primo: a) di furto continuato aggravato = art. 624, 625, n.7 u.p., 61 n.11, 81 C.P. = perchè, in Bitonto il 16 aprile 1944 e precedentemente, con azioni del medesimo disegno criminoso, si impossessava, per trarne profitto, di "grumets", in numero non inferiore a 60, togliendoli dai depositi di munizione delle FF.AA. Alleate, ed abusando dell'opera prestata alle dipendenze delle dette FF.AA.

b) di distruzione di cose militari = art. 158 C.P.M.G., 81 C.P. = perchè, nelle dette circostanze, con azioni del medesimo disegno criminoso, sottraendo i "grumets" di cui al capo che precede, rendeva inservibili i proiettili, cui i "grumets" dovevano essere apposti.

Il secondo : di concorso nei reati di cui ai capi a e b = art. 110, 118, 81, 624, 625, n.7 u.p., 61 n.11 C.P. e 158 C.P.M.G., perchè concorreva nei reati ascritti al primo, promettendo assistenza ed aiuto da prestarsi dopo il reato e tale assistenza ed aiuto prestando con l'acquistare i "grumets", che venivano poi trovati in parte in casa sua.

=====

N.B. = 1° = Nei confronti del primo imputato bisogna indagare sulle precedenti sottrazioni.

Ove non risultassero altre sottrazioni, oltre quella per cui vi fu sorpresa in flagranza, dovrebbe escludersi la continuazione (art.81 C.P.).

2° = Nei confronti del secondo imputato è necessario in istruttoria, ed anche solo in udienza, una migliore indagine.

Ove non risultasse la figura del concorso, in quanto l'imputato avrebbe ricevuto dal primo i "grumets" in oggetto senza un previo concerto, il reato commesso sarebbe quello di ricettazione a norme degli art.648, 81 C.P.

Ove, poi, risultasse che l'imputato non ha ricevuto nulla dal primo e che gli oggetti trovati in casa sono stati da lui ricevuti da persone sconosciute, senza che si possa precisare nei propri estremi la sussistenza di un furto e di una ricettazione, il reato commesso sarebbe quello di cui all'art. 166 C.P.M.P. 47 C.P.M.G.

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1° - MARINO Francesco

2° - DE GEMMA Donato

I M P U T A T I

Il primo: a) di furto continuato aggravato - art. 624, 625, n.7, n.p., 61 n.11, 81 C.P. - perchè, in Bitonto il 16 aprile 1944 e precedente-
mente, con azioni del medesimo disegno criminoso, si impossessava, per
trarne profitto, di "grammets", in numero non inferiore a 60, toglien-
doli dai depositi di munizione delle F.R.A.A. Allente, ed abusando del-
l'opera prestata alle dipendenze delle dette F.R.A.A.

b) di distruzione di cose militari - art. 158 C.P.M.G., 81 C.P. - per-
chè, nelle dette circostanze, con azioni del medesimo disegno crimino-
so, sottraendo i "grammets" di cui al capo che precede, rendeva inser-
vibili i proiettili, cui i "grammets" dovevano essere apposti.

Il secondo: di concorso nei reati di cui ai capi a e b - art. 110, 118,
81, 624, 625, n.7 n.p., 61 n.11 C.P. e 158 C.P.M.G., perchè concorrevano
nei reati ascritti al primo, promettendo assistenza ed aiuto in prestar-
si dopo il reato e tale assistenza ed aiuto prestando con l'acquistare
i "grammets", che venivano poi trovati in parte in casa sua.

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N.B. - 1° - Nei confronti del primo imputato bisogna indagare sulle gre-
cedenti sottrazioni.

Ove non risultassero altre sottrazioni, oltre quella per cui vi fu sor-

b) di distruzione di cose militari = art. 158 C.P.M.G., 81 C.P. = per-
chè, nelle dette circostanze, con azioni del medesimo disegno crimino-
so, sottraendo i "grammets" di cui al capo che precede, rendeva inser-
vibili i proiettili, o i "grammets" dovevano essere apposti.

Il secondo: di concorso nei reati di cui ai capi a e b = art. 110, 118,
81, 624, 625, n.7 n.p., 61 n.11 C.P. e 150 C.P.M.G., perchè concorrevano
nei reati ascritti al primo, promettendo assistenza ed aiuto in prestar-
si dopo il reato e tale assistenza ed aiuto prestando con l'acquistare
i "grammets", che venivano poi trovati in parte in casa sua.

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N.B. = 1° = Nei confronti del primo imputato bisogna indagare sulle ge-
cedenti sottrazioni.

Ove non risultassero altre sottrazioni, oltre quella per cui vi fu sor-
presa in flagranza, dovrebbe escludersi la continuazione (art. 81 C.P.).
2° = Nei confronti del secondo imputato è necessario in istruttoria, od
anche solo in rinvio, una migliore indagine.

Ove non risultasse la figura del concorso, in quanto l'imputato avrebbe
ricevuto dal primo i grammets in oggetto senza un previo concerto, il
reato commesso sarebbe quello di ricettazione a norme degli art. 648,
81 C.P.

(P.T.O.)

Ove, poi, risultasse che l'imputato non ha ricevuto nulla dal primo e che gli oggetti trovati in casa sono stati da lui ricevuti in persone sconosciute, senza che si possa precisare nei propri estremi la sussistenza di un furto e di una ricettazione, il reato commesso sarebbe quello di cui all'art. 166 C.P.M.P. 47 C.P.M.G.

HEADQUARTERS,
ALLIED CONTROL COMMISSION,
APO 394

Regional Control and Military Government Section.
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Ref: 264/36/CA.

5th June 1944.

SUBJECT: AMG Courts in Italian Government territory.

TO : Administrative Section
(Attn. Chief Legal Officer).

1. I forward herewith letter from the Regional Commissioner, Region II, regarding 11 serious cases which, as a matter of policy, he considers should be tried by AMG Courts.
2. The proceedings of only one case, namely, (f) the Bitonto ammunition theft case, are attached to his letter. The proceedings are not, in my opinion, in anything like final form nor does the Regional Commissioner give any special reason why the case should be tried by AMG Court, nor does he state that the District Commander has so recommended.
3. My recommendation is that the case should be dealt with in the ordinary way by the Italian Court.

LEGAL SUB-COMMIS.	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	

MSL/JG.

Brigadier,
Executive Commissioner.

1 3 Cases of Theft of Cordite

DE BARI
MASIELLO
VIRGILIO

2 Cases of Theft of "Grunneths"

Marmio.
De Gennaro.

4 Cases of "Sabotage"

Barone
Ragno
Chiapperma
Ruggiero.

Reg 2

1A

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